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Impounded

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

APPEALS COURT

DOCKET NO. 2018-P-0028

RECEIVED
SUPREME JUDICIAL COURT

FEB - 5 2018

FOR THE COMMONWEALTH
FRANCIS V. KENNEALLY, CLERK

COMMONWEALTH

v.

MICHELLE CARTER

APPLICATION FOR DIRECT APPELLATE REVIEW

Pursuant to Mass. R. App. P. 11, and for the reasons set forth in the accompanying memorandum, Defendant-Appellant Michelle Carter respectfully requests that this Court grant direct appellate review of this matter.

Respectfully submitted,

MICHELLE CARTER

By her attorneys,



Daniel N. Marx

(BBO# 674523)

William W. Fick

(BBO#650562)

Nancy Gertner

(BBO#190140)

Fick & Marx LLP

100 Franklin Street, 7th Floor

Boston, MA 02110

(857) 321-8360

dmarx@fickmarx.com

T. Cataldo (PMM)

Joseph P. Cataldo

(BBO#558646)

Cornelius J. Madera, III

(BBO#658665)

Cataldo Law Offices, LLC

1000 Village Drive, Suite 207

Franklin, MA 02038

(508) 528-2400

jcataldo@cataldolawoffices.com

Dated: February 5, 2018

Impounded

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

APPEALS COURT
DOCKET NO. 2018-P-0028

COMMONWEALTH

v.

MICHELLE CARTER

**MEMORANDUM IN SUPPORT OF
APPLICATION FOR DIRECT APPELLATE REVIEW**

STATEMENT OF PRIOR PROCEEDINGS

On February 6, 2015, a grand jury sitting in Bristol County returned indictments against Defendant-Appellant Michelle Carter, alleging that Carter committed involuntary manslaughter in violation of G.L. c.265, § 13, in connection with the suicide of Conrad Roy, III, and that Carter was a youthful offender pursuant to G.L. c.119, § 54.

On August 10, 2015, Carter moved to dismiss the indictments, but on September 22, 2015, the hearing judge (Borders, J.) denied that motion.

On October 13, 2015, Carter sought an interlocutory appeal pursuant to G.L. c.211, § 3, and on February 2, 2016, the Single Justice (Botsford, J.) reserved and reported the matter. On July 1, 2016, affirming the trial

judge's decision, this Court held the Commonwealth had presented the grand jury with sufficient evidence to establish probable cause. See Commonwealth v. Carter, 474 Mass. 624 (2016).

Thereafter, from June 6, 2017, through June 16, 2017, a bench trial was held in the Juvenile Court in Bristol County (Moniz, J.).

On June 9, 2017, after the Commonwealth rested, Carter moved for a required finding of not guilty, but the trial judge denied the motion. See Tr. VI, 4-13, 23.

On June 13, 2017, at the close of all evidence, the trial judge took the case under advisement, and on June 16, 2017, he issued his decision from the bench, finding Carter guilty of involuntary manslaughter in connection with Roy's suicide and adjudging her to be a youthful offender. See Tr. IX, 8.

On August 3, 2017, the trial judge imposed a sentence of 2.5 years in the Bristol County House of Correction, with 15 months to be served and the balance suspended with probation for 5 years (from August 3, 2017, to August 1, 2022). See Tr. X, 9. The trial judge also issued a youthful offender sentencing order, and he allowed Carter's motion to stay the execution of her sentence pending her appeal.

On August 31, 2017, Carter filed a timely notice of appeal, and on January 8, 2018, the Appeals Court docketed this matter.

STATEMENT OF RELEVANT FACTS

In the evening on July 12, 2014, 18-year-old Conrad Roy, III, drove his truck to the Kmart plaza in Fairhaven, parked in an isolated area, started a portable gas-powered pump that he had taken from his grandfather's company and placed on the back seat, filled his truck with lethal carbon monoxide, and committed suicide.

Roy took his own life, after years of difficult struggle with personal problems that cannot be attributed in any way to 17-year-old Michelle Carter – and for which she cannot be held accountable. Roy's issues included the divorce of his parents, see Tr. III, 65-66, physical abuse by his father, see Tr. VI, 33-37, 110-12, 136; Tr. VII, 86, 139, severe social anxiety and depression, see Tr. III, 67, 70, 75, 77, 83, 85, 87; Tr. VII, 102-103, hospitalizations for mental health issues, including suicidal ideation, see Tr. III, 68-69, 78-79, 84, 129-130, chronic difficulties at school, including dropping out for part of one year, see Tr. III, 70-71, 75, 144, a sudden decision not to pursue college, see Tr. III, 64, 89, 130-131, 239-240, recreational drug use, see Tr. III,

135-136; Tr. VII, 86, and most importantly, multiple prior suicide attempts, see Tr. III, 228; Tr. V, 94; Tr. VII, 138; see also Tr. VII, 83-84, 131 (expressing extreme despair and hopelessness about his future).

Meanwhile, since February 2012, when Roy met Carter, see Tr. III, 72-73, the two teenagers had a complicated relationship, primarily through text messages and telephone calls, see Tr. III, 91. For two-plus years before Roy committed suicide, Carter considered Roy to be a close friend, whom she tried to help. See Tr. VII, 84. For his part, Roy revealed his personal problems and suicidal thoughts to Carter, texting, "I want to die," and telling her, "I'm going to kill myself, I've got plans, I'm researching." Tr. VIII, 93; see Tr. VII, 111-112 (Roy told Carter he had "negative, suicidal" thoughts "every day" and "all day."). In the months before his death, Roy searched online for information about suicide, and he sent links and images to Carter. See Tr. IV, 207-208; Tr. V, 143-144; Tr. VI, 98-99.

Perhaps, Roy talked to Carter because she, too, dealt with mental health issues, had been hospitalized, and felt socially isolated. See Tr. IV, 37-38, 55, 70-71, 115, 132-134; Tr. VII, 67, 175-76, 193-194. Whatever the reason, there is no dispute that Roy and Carter shared

thousands of texts, and in those intimate, emotional exchanges, Roy "talk[ed] about killing himself, continuously, on and off," with Carter. Tr. VII, 82

In June 2014, Carter underwent inpatient treatment for an eating disorder, see Tr. IV, 135, and she encouraged Roy to consider additional inpatient treatment for himself, see Tr. III, 50-51 ("You aren't going to get better on your own.... No, you need professional help, like me."); see Tr. VII, 92-93. But Roy refused, insisting that nothing any doctor "would do or say would help him or change the way he feels." Tr. IV, 155. Instead, after Carter left the hospital, Roy continued to talk about taking his own life.

Then, only a few weeks later, on July 12, 2014, around 6 p.m., Roy left his mother's house in his truck. See Tr. III, 101. Telephone records indicate that, while Roy was in the area of the Kmart plaza, he spoke twice with Carter: first, Roy called Carter at 6:28 p.m., and they talked for nearly 45 minutes; then, after a short break, Carter called Roy at 7:12 p.m., and that call lasted for more than 45 minutes, until almost 8 p.m. See Tr. V, 25-26. No physical evidence proves if Roy was alive at that point, and the medical examiner could not precisely determine the time of Roy's death. See Tr. V,

80. Further, no direct evidence, such as audio recordings or contemporaneous notes, establishes what Roy and Carter may have said to each other. Although Roy had talked about killing himself earlier that day, Carter "never thought he would actually [commit suicide]." Tr. IV, 29.

Shortly after the second call ended, Carter called Roy, over and over, nearly every minute, at 7:59 p.m., 8:02 p.m., 8:03 p.m. ... through 8:36 p.m., but Roy did not answer. See Tr. V, 27-28, 44. About two hours later, when Carter still had not heard from Roy, she texted Roy's sister, Camdyn: at 10:19 p.m., Carter told Roy's sister she was worried about Roy and asked, "do you know where your brother is?" Tr. III, 225, 232. After checking with Roy's mother, Roy's sister falsely assured Carter that Roy was alive, well, and asleep at his father's house. See Tr. III, 102-103, 225-226, 230-232.

On July 13, 2014, an officer from Fairhaven Police Department found Roy's dead body in his truck. See Tr. III, 162-170. It was later determined that Roy succumbed to carbon monoxide poisoning. See Tr. III, 58-59 & Ex. 1.

The expert evidence at trial established that the single greatest predictor of suicide risk is a prior suicide attempt. See Tr. VII, 138. That undisputed fact is critical, because long before Carter did anything that

could remotely be construed as encouraging Roy to commit suicide, he had tried to take his own life - more than once.¹ As the Commonwealth conceded, Roy had made "previous suicide attempts." Tr. III, 228.

Roy left a suicide note for Carter, in which he explained his decision to commit suicide and took full responsibility for his fatal choice:

To Michelle: This life has been challenging and troublesome for me but I'll forever be in your heart and we will meet up someday in Heaven.... Take anything from my room at my moms/dads to remind you of me.... I'm sorry about everything. I am messed up I guess. I wish I could express my gratitude but I feel brain dead. I love you and greatly appreciate [yo]ur effort and kindness toward me.... I ♥ you.

Ex. 27; see Tr. III, 127. As Dr. Peter Breggin, the only psychiatrist to testify at trial, observed: "[Roy] says he loves [Carter], and he thanks her for all the goodness and kindness that she's given him. It's not about being bullied. It's the opposite." Tr. VII, 137. Roy "greatly appreciate[d]" Carter's "effort and kindness," but the Commonwealth has, nevertheless, blamed Carter for causing

¹ In late October 2012, Roy tried to overdose on acetaminophen, see Tr. III, 77-78, 81-82; see also Tr. III, 252, and in late June 2014, a few weeks before his death, Roy tried to induce water poisoning, see Tr. VII, 138; Tr. VIII, 97-98. On July 10, 2014, just days before his suicide, Roy tried to kill himself with carbon monoxide by using a portable generator, but that device broke down. See Tr. III, 43, 56-57; Tr. VIII, 104.

Roy's suicide - that is, for killing Roy.

STATEMENT OF LEGAL ISSUES²

1. Whether Carter was wrongfully convicted, in violation of Article 12 and the Fifth Amendment, of a form of involuntary manslaughter for which she was not indicted, where the grand jury found she had engaged in "wanton and reckless conduct," but the trial judge found her guilty based on her "wanton and reckless failure to act" to alleviate a self-created risk? Defense counsel could not raise this issue below, because it was not ripe until the trial judge returned and explained his verdict.

2. Whether the common law of involuntary manslaughter, if construed to reach physically absent persons who encourage suicide with words alone, violates

² This application does not include an exhaustive list of the legal issues that Ms. Carter intends to present on appeal. For example, in addition to the issues discussed herein, Ms. Carter intends to challenge her convictions, because the evidence at trial was insufficient to prove beyond a reasonable doubt that she engaged in wanton or reckless conduct, or that she was liable for any wanton or reckless failure to act despite owing a self-created legal duty to Roy. The evidence also failed to establish beyond a reasonable doubt that Carter caused Roy to commit suicide, given his prior attempts and personal struggles. In short, when evaluating the evidence, which included thousands of text messages over a two-year period, the trial judge inappropriately focused on a narrow period immediately before Roy took his own life ("the second period," Tr. IX, 3), without adequately considering Carter's conduct before and after Roy's suicide or the broader context of their relationship.

Article 12, the First Amendment, and the Fifth Amendment, because it is an unconstitutionally vague criminal offense that gives inadequate notice and invites arbitrary enforcement, and also because it permits a conviction based solely on reckless speech? Defense counsel raised this issue below, but the trial judge denied a motion for a required finding of not guilty.

3. Whether Carter was wrongfully convicted as a youthful offender, because involuntary manslaughter does not categorically involve "the infliction of serious bodily harm" as required by G.L. c.119, § 54, and at trial, the Commonwealth presented no evidence that Carter "inflicted" any harm on Roy? Defense counsel raised this issue below, but the trial judge denied a motion for a required finding of not guilty.

4. Whether the trial judge erroneously relied on the uncorroborated statement - "I told him to get back in" - that Carter made in a single text message that she sent to a friend, more than two months after Roy's suicide, in violation of Massachusetts and Federal law that is intended to prevent wrongful convictions due to unreliable "confessions"? Defense counsel did not raise this issue below, because it was not ripe until the trial judge returned and explained his verdict.

5. Whether the trial judge erroneously failed to apply a "reasonable juvenile" standard to evaluate the conduct of 17-year-old Carter, given the extensive legal and scientific developments on juvenile neuroscience, development, and culpability? Defense counsel raised this issue below, but the trial judge refused (or at least, failed) to apply a "reasonable juvenile" standard.

6. Whether trial judge erroneously excluded expert evidence on adolescent psychology, in violation of Carter's rights, under Article 12 and the Sixth Amendment, to present her defense? Defense counsel raised this issue below, but the trial judge denied a motion to present such evidence.

STATEMENT OF REASONS WHY
DIRECT APPELLATE REVIEW IS APPROPRIATE

Direct appellate review is appropriate in this matter because, as explained below, this appeal presents novel questions of constitutional and criminal law. It will set precedent for who may be prosecuted for encouraging suicide with words alone. In addition, the extraordinary public interest in this case, which implicates a major controversy about assisted suicide and which has garnered international attention, warrants immediate review by the Commonwealth's highest court.

ARGUMENT

I. The Trial Judge Improperly Convicted Carter of a Type of Involuntary Manslaughter for Which the Grand Jury Did Not Indict Her.

Article 12 and the Fifth Amendment provide "no one may be convicted of a crime punishable by a term in the State prison without first being indicted for that crime by a grand jury." Com. v. Barbosa, 421 Mass. 547, 968 (1995); see Russell v. United States, 369 U.S. 749, 770-771 (1962). But Carter was found guilty of a type of involuntary manslaughter for which she was not indicted.

Involuntary manslaughter can take two forms: an unintentional killing caused by (1) wanton or reckless conduct or (2) wanton or reckless failure to act. See Carter, 474 Mass. at 630-631, citing Com. v. Life Care Ctrs. of Am., Inc., 456 Mass. 826, 832 (2010).

Here, the grand jury indicted Carter for her "conduct," Carter, 474 Mass. at 631; see id. at 634-635 (focusing on purported evidence that Carter "commanded [Roy] to 'get back in'"), which "usually consists of an affirmative act 'like driving an automobile or discharging a firearm,'" Com. v. Levesque, 436 Mass. 443, 447 (2002), quoting Com. v. Welansky, 316 Mass. 383, 397 (1944). The grand jury did not indict Carter for any failure to act.

The trial judge, however, convicted Carter for her failure to act, in violation of a duty to alleviate a risk to Roy that she allegedly created. See Tr. IX, 5-8.

Knowing that Mr. Roy is in the truck, knowing the condition of the truck ... Ms. Carter takes no action in furtherance of the duty that she has created by instructing Mr. Roy to get back into the truck.

Tr. IX, 7; see Tr. IX, 8 (citing "[Carter's] failure to act"). In fact, the trial judge "took direction" from Levesque, where this Court held, "where one's actions create a life-threatening risk to another, there is a duty to take reasonable steps to alleviate that risk," and "the reckless failure to fulfill this duty can result in a charge of manslaughter." Tr. IX, 6-7.

Put simply, the verdict was inconsistent with the indictment and, thus, improper. Although the grand jury found probable cause that Carter's conduct caused Roy's death (i.e., she forced him into the truck), the trial judge only found proof beyond a reasonable doubt that she failed to take any action to stop his suicide (i.e., she did not call for help).

II. Involuntary Manslaughter Based on Words Alone Is a Vague Offense That Gives Inadequate Notice, Invites Arbitrary Enforcement, and Penalizes Free Speech.

Because due process demands "fair notice" of illegal conduct, "[a] law is void for vagueness if persons of

common intelligence must necessarily guess at its meaning and differ as to its application,'" Com. v. Freiberg, 405 Mass. 282, 288-289 (1989), quoting Smith v. Goguen, 415 U.S. 566, 572 n.8 (1974). Further, given its First Amendment implications, the conviction in this case "requires the strictest ... scrutiny because 'the line between speech unconditionally guaranteed and speech which may legitimately be ... punished is finely drawn.'" Com. v. A Juvenile, 368 Mass. 580, 584 (1975), quoting Speiser v. Randall, 357 U.S. 513, 525 (1958), and criminalizing reckless speech, without the specific intent to threaten or harm, violates core First Amendment principles, see Virginia v. Black, 538 U.S. 343 (2003).

In Carter, this Court held involuntary manslaughter was "neither objectively nor subjectively vague" as applied. 474 Mass. at 631 n.11. That decision may have made sense based on the limited, one-sided record before the grand jury, which cast Carter as a diabolical, coercive villain and Roy as a vulnerable, compliant victim. Id. at 626-28 nn.3-6. But the more complete trial record revealed two troubled teenagers who shared a complex relationship, largely by texting. Carter was "very vulnerable" to Roy, and he had "authority" in their relationship. Tr. VII, 82, 129-130. In fact, it was Roy

who suggested a suicide pact ("We should be like Romeo and Juliet at the end."), and Carter who refused. Tr. VII, 106; Tr. VIII, 100.

Before Carter, no case held whether a physical act is "a prerequisite of involuntary manslaughter." 474 Mass. at 632 n.14. A reasonable person could only have guessed if the law might apply to encouraging suicide with "words alone." Id. at 633. The self-inflicted death cases, such as Commonwealth v. Atencio, 345 Mass. 627 (1963), did not give adequate notice that a physically absent person could commit an unlawful killing by recklessly sending a text or placing a call.

Carter is the first defendant to have been convicted of killing a person who took his own life, even though she neither provided the fatal means nor was present when the suicide occurred. Nothing in Massachusetts law made clear to 17-year-old Carter, or anyone else, that such circumstances could constitute involuntary manslaughter. Moreover, this Court cited no precedent for the novel concept of "virtual" presence, Carter, 474 Mass. at 632 n.13, and under Massachusetts law, there is none.

Due process also prohibits any criminal law that invites "arbitrary and discriminatory enforcement." Com. v. Reyes, 464 Mass. 245, 249 (2013); see Grayned v.

Rockford, 408 U.S. 104, 108-109 (1972). Although this Court suggested it could easily distinguish this case from one where prosecution would be unwarranted or impermissible, see Carter, 474 Mass. at 636, that confidence now seems misplaced. The trial evidence showed that Carter sought "to ameliorate the anguish" of Roy, who had long suffered from severe depression and "question[ed] the value of life." Id. This Court's opinion in Carter provided no meaningful criteria to decide if any particular case involves an acceptable assisted suicide or a blameworthy killing.

III. Involuntary Manslaughter Does Not Categorically Involve the "Infliction of Serious Bodily Harm," and at Trial, The Commonwealth Presented No Evidence that Carter "Inflicted" Harm on Roy.

The Youthful Offender Statute authorizes an indictment against a juvenile, where the juvenile "is alleged to have committed an offense that involves the infliction ... of serious bodily harm." G.L. c.119, § 54. Because the law "does not define the phrase 'infliction ... of serious bodily harm,'" the Court must interpret the words according "their usual and accepted meanings." Com. v. Clint C., 430 Mass. 219, 225 (1999).

"To inflict," which comes from the Latin *infligere* or "to strike," means to cause harm in an intentional, direct, and physical manner. The primary definition is

"to give by striking," as in "inflicts a blow on his opponent's jaw." Webster's Ninth New Coll. Dict. (1984); see Oxford English Dict. (1989) ("To lay on as a stroke, blow, or wound[.]"). A "virtually present" person cannot "inflict" harm with words alone by sending a text. And if that person merely fails to act, she has not "inflicted" harm, in the sense of "striking" the victim.

Even if "inflict" were ambiguous, and arguably synonymous with "cause," the Youthful Offender Statute, like all criminal statutes, must be "construed narrowly." Clint C., 430 Mass. at 225. It must also be "construed liberally," like all juvenile delinquency laws, because "children, as far as practicable, shall be treated, 'not as criminals, but as children in need of, aid, encouragement and guidance.'" Metcalf v. Com., 338 Mass. 648, 651 (1959), citing G.L. c.119, § 53.

To be clear, Carter did not decide this issue, because it failed to address the language of G.L. c.119, § 54. Although Footnote 19 asserted that involuntary manslaughter "inherently involves the infliction of serious bodily harm," Carter, 474 Mass. at 637 n.19, it cited no authority and conflicted with prior decisions that rejected a categorical approach, see, e.g., Felix F. v. Com., 471 Mass. 513, 517 (2015) ("[T]he conduct test,

not the element tests, is operative here.").

IV. The Trial Judge Erroneously Relied on Carter's Uncorroborated "Confession."

To avoid wrongful convictions, Massachusetts and Federal law prohibit finding a defendant guilty based solely on an uncorroborated confession. See Com. v. Forde, 392 Mass. 453, 457 (1984) (adopting the "corroboration rule" which "precludes the possibility of conviction of crime based solely on statements made by a person suffering a mental or emotional disturbance or some other aberration"); Smith v. United States, 348 U.S. 147, 152 (1954). Although the quantum of corroboration "may be quite minimal," Com. v. Villalta-Duarte, 55 Mass. App. Ct. 821, 825-826 (2002), the rule "require[s] evidence that the crime was committed by someone," Com. v. Rodriguez, 76 Mass. App. Ct. 59, 63 (2009).

In this case, the trial judge emphasized Carter's alleged confession that she told Roy to "get back in" the truck. Tr. IX, 5,7; see also Carter, 474 Mass. at 634-635. But there is only one dubious source for that unreliable "confession": a text that Carter sent, more than two months after Roy's suicide, in which she claimed that, after Roy got out of the truck, she told him to "get back in." Tr. IV, 155. To paraphrase Wong Sun v. United States, 371 U.S. 471, 488-489 (1963), a

manslaughter conviction "must rest on firmer ground" than a troubled teenager's uncorroborated text.

Carter is precisely the sort of person whom the corroboration rule aims to protect. Carter "suffer[ed] a mental or emotional disturbance," Forde, 392 Mass. at 458; see Tr. IV, 37-38, 55, 70-71, 115, 132-134; Tr. VII, 175-176, 193-194; earlier texts, which Carter sent shortly after Roy's death, contradicted her later claims; and the Commonwealth portrayed her as an attention-seeking "liar," Tr. VIII, 117 ("Is [Carter] a liar in some of these texts? Absolutely."); Tr. VII, 166-167. Yet the trial judge relied on Carter's uncorroborated "confession" about her role in Roy's suicide.³

V. The Trial Judge Erroneously Failed to Evaluate the Evidence Under a "Reasonable Juvenile" Standard.

Both forms of involuntary manslaughter incorporate an objective standard of reasonableness. See Com. v. Sires, 413 Mass. 292, 302 (1997) ("reasonable person");

³ Unlike in a typical homicide, where the death is "inconsistent with accident, suicide, or natural causes," Forde, 392 Mass. at 458 & n.3, a body cannot serve as the corpus delicti, when the victim may have taken his own life. Here, Roy died from carbon monoxide, and the medical examiner listed his death as a "suicide," not "homicide." Tr. V, 75. His body did not corroborate the key details of Carter's "confession." The trial judge "looked for independent corroboration," Tr. IX, 6 (noting photographs of the water pump corroborated Carter's statement about the noise she heard), but no evidence corroborated Carter's statements, months later, that Roy

Levesque, 436 Mass. at 450 ("reasonable care"). For those purposes, a reasonable person is a hypothetical adult.

But "children cannot be viewed simply as miniature adults," J.D.B. v. North Carolina, 564 U.S. 261, 274 (2011), because they "demonstrate a lack of maturity and underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking," Diatchenko v. Dist. Att'y, 466 Mass. 655, 660 (2013), citing Miller v. Alabama, 567 U.S. 460, 471 (2012). It would be unfair and irrational to convict a juvenile defendant for failing to act like a reasonable adult. See Carroll, J., "Brain Science and the Theory of Juvenile Mens Rea," 94 N.C.L. Rev. 539 (2016).

Particularly where a manslaughter conviction relies on a juvenile's failure to act, despite a duty of reasonable care, the defendant should be judged based on the dangers (if any) that a reasonable juvenile would discern and the actions (if any) that such a juvenile would take. Cf. Mathis v. Mass. Elec. Co., 409 Mass. 256, 263 (1991). In evaluating the evidence concerning 17-year-old Carter, however, the trial judge refused to apply a "reasonable juvenile" standard and failed to consider that, like Roy, Carter was an immature

stepped out or that she told him to "get back in."

adolescent who struggled with mental health issues.

VI. The Trial Judge Erroneously Excluded Expert Evidence on Adolescent Psychology.

The defense moved in limine to present testimony of Dr. Frank DiCataldo, a forensic psychologist, on "recent advances" concerning "the neuroscience of adolescent brain development" in order to explain "how adolescents differ from adults in their thinking and self-regulation abilities." Supp. Mem. (3/28/17) at 1.

The trial judge found that Dr. DiCataldo qualified as an expert and that evidence about "the undeveloped adolescent brain ... has garnered recognition in the courts of Massachusetts" as reliable science. Order (5/3/17) at 1. But the judge excluded the testimony, ruling because Dr. DiCataldo had not examined Carter, the "reliability of his theory as it would apply to this case cannot be tested," and his testimony "would invite and require speculation by the jury." Id. at 3-4.

The trial judge abused his discretion, and the complete exclusion of Dr. DiCataldo's testimony violated Carter's right to present a defense under the Sixth Amendment and Article 12, "which provides that 'every subject shall have the right to produce all proofs that may be favorable to him.'" Commonwealth v. Polk, 462 Mass. 23, 33 (2012) (internal citations omitted).

In Commonwealth v. Okoro, 471 Mass. 51 (2015), this Court upheld a trial judge in allowing expert testimony:

regarding the development of adolescent brains and how this could inform an understanding of [a] particular juvenile's capacity for impulse control and reasoned decision-making This information was beyond the jury's common knowledge, [and] it offered assistance to the jury in determining whether the defendant was able to form the intent required

Id. at 66. Nothing in Okoro suggests that a personal evaluation of the defendant is a prerequisite for admitting such testimony. Indeed, an expert may testify about psychological issues without any such examination. For example, in Commonwealth v. Shanley, 455 Mass. 752 (2010), the Commonwealth presented expert testimony on the general behavior of sexually abused children to rebut claims that victims fabricated stories. See id. at 757, 766. Here, it would only have confused the jury if Dr. DiCataldo testified about Carter in particular, because his opinion concerned adolescents in general.

By erroneously excluding the defense's expert testimony on adolescent psychology, the trial judge deprived Carter of her constitutional right to present evidence that would have assisted the trier of fact to understand issues bearing on mens rea and causation, including Carter's conduct; its influence, if any, on Roy's conduct; and the meaning of their texts.

CONCLUSION

For the foregoing reasons, Defendant-Appellant Michelle Carter respectfully requests this Court grant her application for direct appellate review in this matter.

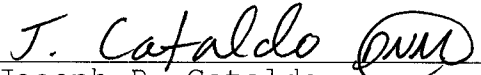
Respectfully submitted,

MICHELLE CARTER

By her attorneys,



Daniel N. Marx
(BBO# 674523)
William W. Fick
(BBO#650562)
Nancy Gertner
(BBO#190140)
Fick & Marx LLP
100 Franklin Street, 7th Floor
Boston, MA 02110
(857) 321-8360
dmarx@fickmarx.com



Joseph P. Cataldo
(BBO#558646)
Cornelius J. Madera, III
(BBO#658665)
Cataldo Law Offices, LLC
1000 Village Drive, Suite 207
Franklin, MA 02038
(508) 528-2400
jcataldo@cataldolawoffices.com

Dated: February 5, 2018

Certificate of Service

I, Daniel N. Marx, hereby certify that on this day I did serve the above documents by first-class U.S. mail, postage prepaid on counsel of record for the Commonwealth:

David B. Mark, Esq.
Shoshana E. Stern, Esq.
Bristol County District Attorney's Office
888 Purchase Street
New Bedford, MA 02740


Daniel N. Marx

Dated: February 5, 2018

Impounded

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

APPEALS COURT
DOCKET NO. 2018-P-0028

COMMONWEALTH

v.

MICHELLE CARTER

ADDENDUM TO
APPLICATION FOR DIRECT APPELLATE REVIEW

1.	Docket Report.....	1
2.	Indictments.....	29
3.	Memorandum and Order on Defendant's Motion to Allow Expert Testimony of Dr. Frank DiCataldo....	32
4.	Order on Defendant's Motion for Directed Verdict....	36
5.	Explanation of Verdict.....	38
6.	Verdict.....	52



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

15YO0001NE Commonwealth v. Carter, Michelle

CASE TYPE:	Youthful Offender	FILE DATE:	02/06/2015
ACTION CODE:	265/13/C-0	CASE TRACK:	
DESCRIPTION:	MANSLAUGHTER INVOLVING NEGLECT OF LEGAL DUTY c265 §13		
CASE DISPOSITION DATE	06/16/2017	CASE STATUS:	Open
CASE DISPOSITION:	Disposed	STATUS DATE :	09/22/2015
CASE JUDGE:		CASE SESSION:	

LINKED CASE

PARTIES

Complainant

Bristol County District Attorney's Office
888 Purchase Street
New Bedford, MA 02740

Defendant

Carter, Michelle
6 Tanglewood Road
Plainville, MA 02762

Private Counsel

558646

Joseph Paul Cataldo
Ryan Faenza Cataldo, LLC
Ryan Faenza Cataldo, LLC
1000 Franklin Village Drive
Suite 207
Franklin, MA 02038
Work Phone (508) 528-2400
Added Date: 02/06/2015

PARTY CHARGES

#	Offense Date/ Charge	Code	Town	Disposition	Disposition Date
1	07/12/2014 MANSLAUGHTER INVOLVING NEGLECT OF LEGAL DUTY c265 §13	265/13/C-0	Fairhaven		
	Sentence Date: 08/03/2017		Split Sentence to HOC		
	Term:	Yrs 2 Mos 6 Days 0	To Serve:	Yrs 0 Mos 15 Days 0	
	Probation Type: Administrative Probation				
				Found to be a youthful offender	06/16/2017

A true copy
Attest:

Magistrate



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

EVENTS				
Date	Session	Event	Result	Resulting Judge
02/06/2015	New Bedford Session	Warrant/Precept Hearing	Held - Warrant/Removal	DeSousa
02/06/2015	New Bedford Session	Arraignment	Held	Foley
02/06/2015	New Bedford Session	Warrant/Precept Hearing	Held - Warrant/Removal	Foley
04/17/2015	New Bedford Session	Pre Trial Hearing	Rescheduled	Borders
04/23/2015	New Bedford Session	Pre Trial Hearing	Rescheduled	Foley
04/23/2015	New Bedford Session	Motion Hearing	Held	Foley
06/09/2015	New Bedford Session	Motion Hearing	Rescheduled	Borders
06/09/2015	New Bedford Session	Pre Trial Hearing	Held	Borders
08/24/2015	New Bedford Session	Motion Hearing	Held	Borders
09/03/2015	New Bedford Session	Motion Hearing	Held	Foley
10/02/2015	New Bedford Session	Motion Hearing	Cancelled	Borders
11/30/2015	Taunton Session	Pre Trial Hearing	Rescheduled	Moniz
01/21/2016	Taunton Session	Pre Trial Hearing	Rescheduled	Moniz
02/02/2016	Taunton Session	Pre Trial Hearing	Held	Moniz
05/20/2016	Taunton Session	Report	Cancelled	Moniz
07/21/2016	Taunton Session	Pre Trial Hearing	Rescheduled	Moniz
07/29/2016	Taunton Session	Pre Trial Hearing	Held	Moniz
09/02/2016	Taunton Session	Motion Hearing	Held	Moniz
10/14/2016	Taunton Session	Motion to Suppress	Held - Taken Under Advisement	Moniz
10/14/2016	Taunton Session	Motion Hearing	Held	Moniz
12/01/2016	Taunton Session	Pre Trial Conference (CR/CV)	Rescheduled	Moniz
12/19/2016	Taunton Session	Motion Hearing	Held	Moniz
01/23/2017	Taunton Session	Pre Trial Hearing	Held	Moniz
02/03/2017	Taunton Session	Motion Hearing	Held	Moniz
02/13/2017	Taunton Session	Other Hearing	Cancelled	Moniz
02/15/2017	Taunton Session	Other Hearing	Cancelled	Moniz
03/06/2017	Taunton Session	Jury Trial	Rescheduled	Moniz
03/06/2017	Taunton Session	Report	Held	Moniz
03/21/2017	Taunton Session	Other Hearing	Rescheduled	Moniz
03/21/2017	Taunton Session	Motion Hearing	Rescheduled	Moniz
04/07/2017	Taunton Session	Motion Hearing	Held	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

04/07/2017	Taunton Session	Other Hearing	Held	Moniz
05/10/2017	Taunton Session	Other Hearing	Held	Moniz
05/10/2017	Taunton Session	Motion Hearing	Held	Moniz
05/30/2017	Taunton Session	Other Hearing	Held	Moniz
06/05/2017	Taunton Session	Jury Trial	Cancelled	Moniz
06/05/2017	Taunton Session	Hearing on Merits (CR/CV)	Rescheduled	Moniz
06/06/2017	Taunton Session	Hearing on Merits (CR/CV)	Rescheduled	Moniz
06/07/2017	Taunton Session	Hearing on Merits (CR/CV)	Rescheduled	Moniz
06/08/2017	Taunton Session	Hearing on Merits (CR/CV)	Rescheduled	Moniz
06/09/2017	Taunton Session	Hearing on Merits (CR/CV)	Rescheduled	Moniz
06/12/2017	Taunton Session	Hearing on Merits (CR/CV)	Rescheduled	Moniz
06/13/2017	Taunton Session	Hearing on Merits (CR/CV)	Held - Bench Trial	Moniz
06/16/2017	Taunton Session	Other Hearing	Held	Moniz
08/03/2017	Taunton Session	Other Hearing	Held	Moniz
08/10/2017	Taunton Session	Motion Hearing	Held	Moniz
08/21/2017	Taunton Session	Motion Hearing	Held	Moniz
08/01/2022	Taunton Session	Report Final Date		

FINANCIAL SUMMARY					
	Fees/Fines/Costs	Assessed	Paid	Dismissed	Balance
	Total	2,242.00	2,147.70	49.30	45.00
	Money on Deposit	Assessed	Paid	Dismissed	Balance
	Total	4,742.00	4,647.70	49.30	45.00
Deposit Account(s) Summary		Received	Applied	Checks Paid	Balance
	Total	2,500.00	0.00		2,500.00



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

INFORMATIONAL DOCKET ENTRIES			
Date	Ref	Description	Judge
02/06/2015		Indictment filed.	
02/06/2015		FORM: Warrant (DL/YO) Sent On: 02/06/2015 11:36:53	
02/06/2015		Temporary mittimus to DYS \$2,500.00 cash bail . [FORM]	Foley
02/06/2015		Court issues order no access to internet unless for school or work, no social media, texting with parents only.	Foley
02/06/2015		Warrant recalled. Straight Warrant cancelled on 02/06/2015 for Carter, Michelle	
02/06/2015		Court issues order By agreement of the Commonwealth and Defendant, bail is set at \$2,500.00 on this date..	Foley
02/06/2015		Filed On this date Joseph Paul Cataldo, Esq. added as Private Counsel for Defendant Michelle Carter	
02/06/2015		Arrest warrant to issue for child/defendant.	DeSousa
02/06/2015		Warrant cancelled.	Foley
02/06/2015		Mother present in Court.	Foley
02/06/2015		Father present in court.	Foley
02/06/2015		Atty Cataldo present in court.	Foley
02/06/2015		Judge informs child/defendant in accordance with G.L. c. 276, § 58 that a condition of release on bail is that should he/she be charged with a crime during the period of release, his/her bail may be revoked.	Foley
02/06/2015		Child/young adult present in court.	Foley
02/06/2015		Plea not youthful offender.	Foley
03/18/2015		Motion filed to continue by Atty Cataldo	
03/18/2015		Motion allowed to continue.	Borders
04/07/2015		Motion filed to disqualify Bristol County District Attorney's Office	
04/15/2015		Request for Hearing on Motion to Disqualify by Atty Cataldo filed.	
04/22/2015		Commonwealth's Response to Defendant's Motion to Disqualify by ADA Murphy filed.	
04/23/2015		Child/young adult present in court.	Foley
04/23/2015		Mother present in Court.	Foley
04/23/2015		Father present in court.	Foley
04/23/2015		Atty Cataldo present in court.	Foley
04/23/2015		WPRI-12 Marcus Valentin, / Boston Herald Laurel J. Sweet, / CBS Kathleen Oconnell, / Boston Herald Jessica Heslam present in court.	Foley



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

04/23/2015	Motion to Disqualify Bristol County District Attorney's Office taken under advisement.	Foley
04/23/2015	\$2,500.00 /Same posted bail.	Foley
06/01/2015	Motion denied to disqualify the Bristol County D.A.'s Office by Atty Cataldo	Foley
	See Judge's attached order	
06/09/2015	Child/young adult present in court.	Borders
06/09/2015	Mother present in Court.	Borders
06/09/2015	Father present in court.	Borders
06/09/2015	Atty Cataldo present in court.	Borders
06/09/2015	Same posted bail.	Borders
06/09/2015	Released on same conditions.	Borders
06/09/2015	Court issues order any motion to be heard on 08/24/15 will be filed with the court no later than 08/10/15.	Borders
06/09/2015	Motion filed for Bill of Particulars	Borders
06/24/2015	FINDINGS OF FACT, RULINGS OF LAW AND ORDER REGARDING MOTION TO DISQUALIFY filed.	Foley
08/10/2015	Motion filed to Dismiss by Atty Cataldo	
08/12/2015	Indictments and GJ Minutes and Exhibits by Bristol County District Attorney's Office filed.	
08/13/2015	Judgement from Supreme Judicial Court that Petition is denied by J. Botsford filed.	
08/21/2015	Commonwealth's Response to Defendant's Motion to Dismiss Facts by ADA Murphy filed.	
08/24/2015	Child/young adult present in court.	Borders
08/24/2015	Mother present in Court.	Borders
08/24/2015	Father present in court.	Borders
08/24/2015	Atty Cataldo present in court.	Borders
08/24/2015	Motion to Dismiss taken under advisement.	Borders
09/02/2015	Motion filed to Advance by ADA Flynn and ADA Rayburn	
09/02/2015	Motion filed to Seal Grand Jury Minutes and Exhibits by ADA Flynn and ADA Rayburn	
09/03/2015	Child/young adult present in court.	Foley
09/03/2015	Mother present in Court.	Foley
09/03/2015	Father present in court.	Foley
09/03/2015	Atty Cataldo present in court.	Foley
09/03/2015	Motion allowed to Advance.	Foley
09/03/2015	Motion allowed to Seal Grand Jury Minutes and Exhibits.	Foley
09/22/2015	Memorandum of Decision and Order on Defendant's Motion to Dismiss Indictment filed.	Borders



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

09/22/2015	Motion denied Defendant's Motion to Dismiss	Borders
09/22/2015	Case transferred to Taunton Juvenile Court.	Borders
09/22/2015	Court issues order Case to be heard in Taunton Juvenile Court on 11/30/15.	Borders
09/23/2015	FORM: A Youthful Offender Summons was generated and sent to : Complainant: Bristol County District Attorney's Office Defendant: Michelle Carter Defendant: Joseph Paul Cataldo, Esq.	
10/13/2015	Notice of Appeal by Atty Cataldo filed.	
11/30/2015	Child/young adult present in court.	Moniz
11/30/2015	Atty Cataldo present in court.	Moniz
01/06/2016	Motion to continue/request to continue, assented to by all parties filed.	Moniz
01/06/2016	Motion to continue/request to continue, assented to by all parties, allowed.	Moniz
02/02/2016	Child/young adult present in court.	Moniz
02/02/2016	Mother present in Court.	Moniz
02/02/2016	Father present in court.	Moniz
02/02/2016	Atty Cataldo, Atty Rayburn, ADA present in court.	Moniz
02/02/2016	Motion filed for Stay Court Proceedings in Juvenile Court, by Atty Cataldo	Moniz
02/02/2016	Motion to Stay Court Proceedings in Juvenile Court, by Atty Cataldo taken under advisement.	Moniz
02/02/2016	Released to parents.	Moniz
02/02/2016	Reservation and Report, Judge Botsford, SJC filed.	
02/05/2016	Commonwealth's Opposition to Defendant's Motion to Stay Proceedings in Juvenile Court, Atty Rayburn, ADA filed.	
02/22/2016	Order on Motion to Stay Proceedings filed.	
02/22/2016	Motion allowed for Stay of proceedings by Atty. Cataldo.	Moniz
07/07/2016	Motion to continue filed., by Atty Cataldo	Moniz
07/07/2016	Motion to continue allowed., by Atty Cataldo	Moniz
07/29/2016	Child/young adult present in court.	Moniz
07/29/2016	Mother present in Court.	Moniz
07/29/2016	Atty Cataldo, Atty Flynn, ADA, Atty Rayburn, ADA present in court.	Moniz
07/29/2016	Motion filed Defendant's Motion for Funds for Expert: Psychologist with Expertise in Adolescent Development and Misconduct, by Atty Cataldo	Moniz
07/29/2016	Motion filed Motion filed for Production of Documentary Evidence: Dr. Nada Zaknoun, by Atty Cataldo	Moniz
07/29/2016	Motion filed Motion filed for Production of Documentary Evidence: Toby Hospital	Moniz
07/29/2016	Motion filed Motion filed for Production of Documentary Evidence: Bournemouth Hospital, by Atty Cataldo	Moniz



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

07/29/2016	Motion filed Motion filed for Production of Documentary Evidence: St. Luke's Hospital, by Atty Cataldo	Moniz
07/29/2016	Motion filed Motion filed for Production of Documentary Evidence: Dr. Jonathan Schwartz, by Atty Cataldo	Moniz
07/29/2016	Motion filed for Production of Documentary Evidence: Boston Children's Hospital, by Atty Cataldo	Moniz
07/29/2016	Motion filed for Production of Facebook Records: Aryanna Taylor, by Atty Cataldo	Moniz
07/29/2016	Motion filed for Production of Facebook Records: Conrad Roy, by Atty Cataldo	Moniz
07/29/2016	Motion filed to Produce Suicide Evaluation Forms, by Atty Cataldo	Moniz
07/29/2016	Motion filed for Production of Fire Department records concerning Conrad Roy's Previous Suicide Attempt, by Atty Cataldo	Moniz
07/29/2016	Motion filed to Produce Report and Audio Recordings Concerning Conrad Roy's Previous Suicide Appempt, by Atty Cataldo	Moniz
07/29/2016	Motion filed to Produce Police Reports of Lynn Roy, by Atty Cataldo	Moniz
07/29/2016	Motion filed Motion for Production of Documentary Evidence: Northeast Maritime Institute, by Atty Cataldo	Moniz
07/29/2016	Motion filed for Production of Documentary Evidence,: Fitchburg State, by Atty Cataldo	Moniz
07/29/2016	Motion filed for Documentary Evidence : Old Rochester Regional High School, by Atty Cataldo	Moniz
07/29/2016	Motion filed for Production of Documentary Evidence: Bishop Stang, by Atty Cataldo	Moniz
07/29/2016	Motion filed to Preserve, Produce and inspect Evidence, by Atty Cataldo	Moniz
07/29/2016	Motion filed Defendant's Motion to Funds for Expert: Forsensic Pharmacology and Toxicology, by Atty Cataldo	Moniz
07/29/2016	Motion filed for Production of Documentary Evidence: Celexa (a/k/a/ Citalopram), by Atty Cataldo	Moniz
07/29/2016	Motion to suppress filed. - Statements and Evidence Illegally Seized, by Atty Cataldo	
07/29/2016	Motion filed Defedant's Motion for Funds for Investigator, by Atty Cataldo	Moniz
07/29/2016	Motion allowed Defendant's Motion for Funds for Investigator, by Atty Cataldo.	Moniz
08/08/2016	Judgment After Rescript, entered on Aug. 5, 2016 (SJC-12043 on July 1, 2016) filed.	
08/26/2016	Commonwealth's Response to Defendant's Motions for Funds for Experts, by Atty Rayburn, A.D.A. filed.	
08/26/2016	Commonwealth's Opposition to Defendant's Motion to Produce Police Records of Lynn Roy, by Atty Rayburn, A.D.A. filed.	
09/02/2016	Child/young adult present in court.	Moniz
09/02/2016	Mother present in Court.	Moniz
09/02/2016	Father present in court.	Moniz



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

09/02/2016	Motion allowed for Production of Suicide Evaluation Forms, by atty Cataldo.	Moniz
09/02/2016	Motion allowed for Production of Facebook Records: Conrad Roy, by Atty Cataldo.	Moniz
09/02/2016	Motion denied for Production of Documentary Evidence: Celexa (a.k.a. citalopram), by Atty Cataldo - without prejudice	Moniz
09/02/2016	Motion allowed for Production of Documentary Evidence: Boston Children's Hospital, by Atty Cataldo.	Moniz
09/02/2016	Motion allowed for Production of Documentary Evidence: Dr. Jonathan Schwartz, by Atty Cataldo.	Moniz
09/02/2016	Motion allowed Production of Documentary Evidence: St Luke's hospital, by Atty Cataldo.	Moniz
09/02/2016	Motion allowed for Production of Documentary Evidence: Bournewood Hospital, by Atty Cataldo.	Moniz
09/02/2016	Motion allowed for Production of Documentary Evidence Tobey Hospital, by Atty Cataldo.	Moniz
09/02/2016	Atty Cataldo, Atty Flynn, ADA, Atty Rayburn, ADA present in court.	Moniz
09/02/2016	Motion allowed to Produce report and Audio Recordings concerning Conrad Roy's previous suicide attempt, by Att Cataldo.	Moniz
09/02/2016	Motion allowed for Production of Documentary Evidence: Northeast Maritime institute, by Atty Cataldo.	Moniz
09/02/2016	Motion allowed for Production of Documentary Evidence: Fitchburg State, by Atty Cataldo.	Moniz
09/02/2016	Motion allowed for Production of Documentary Evidence: Old Rochester Regional High, by Atty Cataldo.	Moniz
09/02/2016	Motion allowed for Production of Fire Dept, records, concerning Conrad Roy's previous suicide attempt, by Atty Cataldo.	Moniz
09/02/2016	Motion allowed for Production of Documentary Evidence: Bishop Stang, by Atty Cataldo.	Moniz
09/02/2016	Motion allowed to Preserve, Produce and Inspect Evidence, by Atty Cataldo - See notes in margin of motion.	Moniz
09/02/2016	Affidavit of Indingency, by M. Carter filed.	Moniz
09/02/2016	Court issues order As to Motion to Produce Police Records of Lynn Roy, by Atty Catalo - Rule 17 Motion to be filed if counsel wishes to obtain this information.	Moniz
09/02/2016	Court issues order No Action taken on Motion for Facebook Records: Aryanna Taylor . Notice to be given by prosecution before any other action to be taken on this motion..	Moniz
09/07/2016	Court issues order Protective Orders for Prosecutor and Defense Counsel - as to Presumptively Privileged Records.	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

09/08/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 09/12/1995) from Mattapoisett Fire Department. [FORM] ORDERED: to produce a true and certified copies of any and all documents (entire file), including but not limited to, any EMT records, reports, logs, notes and documents of any kind concerning previous suicide attempt of Conrad Roy, III (DOB: 09/12/1995) from on or about October of 2012 to present.	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy III (DOB: 09/12/1995) and Michelle Carter (DOB: 08/11/1996) from Facebook Inc .and/or its agent Corporation Services Company. [FORM] ORDERED: To produce a true and certified copies of records in its custody concerning the Facebook account of Conrad Roy, III (DOB September 12, 1995) with a web UR: address located at https://www.facebook.com/kings9126 . This includes, but not limited to, print-outs of any and all Facebook instant messages, Messenger chats, private messages, comments, and electronic communications of any kind between Conrad Roy, III at https://www.facebook.com/kings9126 and Michelle Carter (Date of Birth: August 11, 1996) at https://www.facebook.com/michelle.carter.94043626 and all other Facebook " friends" of Conrad Roy, III at https://www.facebook.com/kings9126 from January 1, 2012 to present. This also includes all data and information from the account of Conrad Roy, III located at https://www.facebook.com/kings9126 as follows in the attached ORDER.	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 09/12/1995) from Northeast Maritime Institute. [FORM] ORDERED: to produce all documents and records (entire file) in the custody of Northeast Maritime Institute concerning Conrad Roy, III (DOB September 12, 1995) , including, but not limited to , any applications, grade, licenses, notes, logs, records and documents of any kind concerning Conrad Roy, III.	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III, (DOB 09/12/1995) from Bishop Stang High School. [FORM] ORDERED: to produce true and certified copies of any and all documents of the entire school file, concerning Conrad Roy, III (Date of Birth: September 12, 1995) , including, but not limited to , any notes, logs, documents concerning disciplinary records and attendance records, written evaluations, honor roll records, report cards and records of any kind concerning Conrad Roy, III from January 1, 2011 to present.	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB 09/12/1995) from Fitchburg State University. [FORM] ORDERED: to produce true and certified copies of any and all documents (entire file) concerning Conrad Roy, III (Date of Birth: September 12, 1995) , including, but not limited to , any applications, notes, logs, records and documents of any kind concerning Conrad Roy, III.	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 09/12/1995) from Old Rochester Regional High School. [FORM] ORDERED: to produce a true and certified copies of any and all documents of the entire school file, concerning Conrad Roy, III (Date of Birth: September 12, 1995) , including , but not limited to , any notes, logs and documents concerning disciplinary records, attendance records, written evaluations, honor roll records, reports cards and records of any kind concernin Conrad Roy, III from January 1, 2010 to present.	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 09/12/1995) from Toby Hospital . [FORM] ORDERD: to produce true and certified copies of and and all documents and records (entire file) , including, but not limited to, any and all medical records, notes, logs and documents of any kind in its custody, relative to Conrad Roy, III (DOB: 09/12/1995) , between on or about January 1, 2011 to present.	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 09-12-1995) from St. Luke's Hospital. [FORM] ORDERD: to produce true and certified copies of and and all documents and records (entire file) , including, but not limited to, any and all medical records, notes, logs and documents of any kind in its custody, relative to Conrad Roy, III (DOB: 09/12/1995) , between on or about January 1, 2012 to present	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 09/12/1995) from Bournemouth Hospital. [FORM] ORDERD: to produce true and certified copies of and and all documents and records (entire file) , including, but not limited to, any and all medical records, notes, logs and documents of any kind in its custody, relative to Conrad Roy, III (DOB: 09/12/1995) , between on or about January 1, 2012 to present.	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 09/12/20 from Boston Children's Hospital. [FORM] ORDERD: to produce true and certified copies of and and all documents and records (entire file) , including, but not limited to, any and all medical records, notes, logs and documents of any kind in its custody, relative to Conrad Roy, III (DOB: 09/12/1995) , between on or about January 1, 2011 to present	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 09/12/1995) from Dr. Jonathan Schwartz. [FORM] ORDERD: to produce true and certified copies of and and all documents and records (entire file) , including, but not limited to, any and all medical records, notes, logs and documents of any kind in its custody, relative to Conrad Roy, III (DOB: 09/12/1995) , between on or about July 1, 2011 to present.	Moniz
09/09/2016	Subpoena duces tecum for records re: Conrad Roy, III d.o.b. 09/12/1995 from Mattapoisett Police Department. [FORM] ORDERED: to produce a true and certified copies of all police records and audio recordings, including, but not limited to any 911 tapes, dispatch tapes, turret tapes, police reports, master logs, notes and any records whatsoever concerning the previous suicide attempt of Conrad Roy, (DOB 09/12/1995) that is believed to have occurred on or about October of 2012.	Moniz
09/16/2016	Medical Records record(s) received from Tobey Hospital (Wareham).	
09/16/2016	Medical Records record(s) received from St. Luke's Hospital.	
09/20/2016	Re: Conrad Roy record(s) received from Bournemouth Hospital.	
09/20/2016	Re: Conrad Roy record(s) received from Mattapoisett Police Dept.	
09/20/2016	Re: Conrad Roy record(s) received from Northeast Maritime Institute.	
09/20/2016	Re: Conrad Roy record(s) received from Fitchburg State University.	



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

09/20/2016	Letter from Corporation Services (Facebook) - No Records Found filed.
09/21/2016	Re: Conrad Roy record(s) received from Bishop Stang High School.
09/22/2016	Re: Conrad Roy record(s) received from Boston Children's Hospital.
09/22/2016	Re: Conrad Roy record(s) received from Old Rochestser Regional High School.
09/23/2016	Re: Conrad Roy record(s) received from Dr. Jonathan Schwartz.
09/30/2016	Letter from Mattapoissett Fire Dept. - No records found involving C. Roy filed.
10/11/2016	Motion filed for Production of Documentary Evidence: Arbour-Fuller Hospital, by Atty Cataldo
10/11/2016	Affidavit in Support of Motion for Production of Documentary Evidence: Arbour-Fuller Hospital, by Atty Cataldo filed.
10/11/2016	Motion filed for Production of Police Records of Conrady Roy, Jr., by Atty Cataldo
10/11/2016	Affidavit in Support of Motion for Police Records of Conrad Roy, Jr., by Atty Cataldo filed.
10/11/2016	Motion filed for Production of Department of Children and Families Records, by Atty Cataldo
10/11/2016	Affidavit in Support of Motion for Production of Department of Children and Families Records, by Atty Cataldo filed.
10/11/2016	Motion filed for Production of Documentary Evidence: Dr. Gulnur Brule, by Atty Cataldo
10/11/2016	Affidavit in Support of Motion for Production of Documentary Evidence: Dr. Gulnur Brule, by Atty Cataldo filed.
10/11/2016	Motion filed for Production of Documentary Evidence: James Pierson, by Atty Cataldo
10/11/2016	Affidavit in Support of Motion for Production of Documentary Evidence: James Pierson, by Atty Cataldo filed.
10/11/2016	Motion filed for Production of Police Records of Lynn Roy, by Atty Cataldo
10/11/2016	Affidavit in Support of Motion for Production of Police Records of Lynn Roy, by Atty Cataldo filed.
10/11/2016	Motion filed for Production of EMT Records Concerning Conrad Roy III's Previous Suicide Attempt, by Atty Cataldo
10/11/2016	Affidavit in Support of Motion for Production of EMT Records concerning Conrad Roy III's Previous Suicide Attempt, by Atty Cataldo filed.
10/11/2016	Motion filed for Production and Preservation of Water Pump, by Atty Cataldo
10/11/2016	Affidavit in Support of Motion for Production and Preservation of Water Pump, by Atty Cataldo filed.
10/11/2016	Supplemental Affidavit in Support of Motion for Production of Documentary Evidence: Dr. Nada Zaknoun, by Atty Cataldo filed.
10/13/2016	Commonwealth's Memorandum of Law Opposing the Defendant's Motion to Suppress Statements, by Atty Flynn, ADA filed.



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

10/13/2016	Transcript of Recorded Interview of Michelle Carter, by Atty Flynn, ADA filed.	
10/13/2016	Letter from Aryanna Taylor in response to Motion for Production of Facebook Records of A. Taylor filed.	
10/14/2016	Child/young adult present in court.	Moniz
10/14/2016	Mother present in Court.	Moniz
10/14/2016	Father present in court.	Moniz
10/14/2016	Motion filed ORAL - Motion to Sequester Witnesses, by Atty Cataldo	Moniz
10/14/2016	Exhibit 1 through 6 - as to Motion to Suppress admitted.	Moniz
10/14/2016	Motion filed ORAL - Motion to Sequester Witnesses, by Atty Cataldo	Moniz
10/14/2016	Motion to suppress taken under advisement.	Moniz
10/14/2016	Atty Cataldo, Atty Madeira, Atty Flynn, ADA, Atty Rayburn, ADA, Det. Gordon Fairhaven PD (Witness) present in court.	Moniz
10/14/2016	Motion allowed for Production and Preservation of Water Pump, by Atty Cataldo.	Moniz
10/14/2016	Motion denied for Production of Facebook Records: Aryanna Taylor, by Atty Cataldo	Moniz
10/14/2016	Motion allowed for Production of EMT Records concerning Conrad Roy III's Previous Suicide Attempt, by Atty Cataldo.	Moniz
10/14/2016	Motion allowed for Production of Police Records of Lynn Roy, by Atty Cataldo.	Moniz
10/14/2016	Motion allowed for Production of Documentary Evidence: James Pierson, by Atty Cataldo.	Moniz
10/14/2016	Motion allowed for Production of Documentary Evidence: Dr. Gulnur Brule, by Atty Cataldo.	Moniz
10/14/2016	Motion allowed for Production of Department of Children and Families Records, by Atty Cataldo.	Moniz
10/14/2016	Motion allowed for Production of Police Records of Conrad Roy, Jr., by Atty Cataldo.	Moniz
10/14/2016	Motion allowed for Documentary Evidence: Arbour Fuller Hospital, by Atty Cataldo.	Moniz
10/14/2016	Motion allowed to Disclose Information of DVD of Conrad Roy, III, by Atty Cataldo.	Moniz
10/14/2016	Motion filed ORAL - - Joint Request for Copies of Records, by Atty Cataldo, Atty Madeira, Atty Flynn, ADA and Atty Rayburn, ADA	Moniz
10/14/2016	Motion allowed ORAL -- Joint Request for Copies of Records, by Atty Cataldo, Atty Madeira, Atty Flynn, ADA and Atty Rayburn, ADA.	Moniz
10/14/2016	Motion filed to Disclose Information of DVD of Conrad Roy, III, by Atty Cataldo	
10/14/2016	Motion denied for Production of Documentary Evidence: Dr. Nada Zaknoun, by Atty Cataldo	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

10/17/2016	Subpoena duces tecum for records re: Conrad Roy, Jr. from Mattapoisett Police Department. [FORM] ORDERED: To Produce true and certified copies of police reports of Conrad Roy Jr. (DOB 01/24/1972) , including but not limited to, any police reports, arrest records, photographs, witness statements, master logs and documentary records of any kind concerning Conrad Roy (DOB: 09/12/1995) from on or about Feb. 19, 2014.	Moniz
10/17/2016	Subpoena duces tecum for records re: Conrad Roy, III from Arbour Fuller Hospital . [FORM] ORDERED: To Produce true and certified copies any and all certified documents and records (entire file) , including but not limited to, any and all medical records, notes, logs, discharge summaries, psychological evaluations, psychosocial assessment, treatment plans, medical consults, progress notes, laboratory data and documents of any kind, relative to Conrad Roy, III (DOB: 9/12/1995) , between on or about January 1, 2011 to present.	Moniz
10/17/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 09/12/1995) from James Pierson, Tri -Town Counseling. [FORM] ORDERED: To Produce true and certified copies of any and all documents and records (entire file) , including but not limited to, any and all medical records, notes, logs and documents of any kind, relative to Conrad Roy, III (DOB: 9/12/1995) , between on or about January 1, 2011 to present.	Moniz
10/17/2016	Subpoena duces tecum for records re: Conrad Roy, III, (DOB: 9/12/1995) from Dr. Gulnur BruLe. [FORM] ORDERED: To Produce true and certified copies of any and all documents and records (entire file) , including but not limited to, any and all medical records, notes, logs and documents of any kind relative to Conrad Roy, III (DOB: 9/12/1995) , between on or about January 1, 2012 to present.	Moniz
10/17/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 9/12/1995) from Roy Family (Lynn Roy, Conrad H. Roy, Conrad Roy). [FORM] ORDERED : To Preserve and Produce the water pump given back to them by the Commonwealth and/or its law enforcement agents during the investigation of Conrad Roy, III's suicide that occurred in July of 2014.	Moniz
10/17/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 9/12/1995) from Mattapoisett Police Department. [FORM] ORDERED: To Produce true and certified copies of any and all documents (entire file) , including but not limited to , any EMT records, reports, logs, notes and documents of any kind concerning the previous suicide attempt of Conrad Roy, III (DOB: 9/12/1995) from on or about October 1, 2012 to present.	Moniz
10/17/2016	Subpoena duces tecum for records re: Conrad Roy, III (DOB: 9/12/1995) from Department of Children & Families. [FORM] ORDERED: To Produce true and certified copies of any and all documents (entire file) , including but not limited to any 51A and 51B reports, logs, notes and documents of any kind concerning a 51A that was filed in February of 2014 that concerned a domestic assault by Conrad Roy, Jr. (DOB: 1/24/1972) on Conrad Roy, III (DOB: 9/12/1995) from on or about February 19, 2014 to present.	Moniz



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

10/17/2016	Subpoena duces tecum for records re: Lynn Roy (DOB: 12/05/1972) from Mattapoisett Police Department. [FORM] ORDERED: To Produce true and certified copies of police records of Lynn Roy (DOB: 12/05/1972), including but not limited to, any police reports, arrest records, photographs, witness statements, master logs and documentary records of any kind concerning Conrad Roy, III (DOB: 9/12/1995) from on or about Feb. 19, 2014 and August 2011.	Moniz
10/20/2016	Commonwealth's Supplemental Memorandum Opposing the Defendant's Motion to Suppress Statements, by Atty Rayburn, ADA filed.	
10/20/2016	Defendant's Answers to Legal Questions Presented by This Honorable Court, by Atty Madera filed.	
10/25/2016	Police & EMT record(s) received from Mattapoisett Police Dept..	
10/28/2016	Conrad Roy record(s) received from Department of Children & Families Central Office(Plymouth Office).	
10/28/2016	Commonwealth's Answer to Defense Motion to Disclose Information of DVD of Conrad Roy, III, by Atty Flynn, ADA filed.	
10/31/2016	Subpoena returned with service from Dr. Gulnur BruLe and/or his agents of Pediatric Associates (at 50 N. 2nd Street, New Bedford, MA).	
10/31/2016	Conrad H Roy, III Medical record(s) received from Dr. Gulnur BruLe and/or his agents of Pediatric Associates.	
11/01/2016	Re: Conrad Roy, III record(s) received from Arbour Fuller.	
11/04/2016	Subpoena returned without service Dr. Gulnur BruLe/Pediatric Associates of 50 N. 2nd Street, New Bedford MA 02740.	
11/08/2016	Motion to suppress denied. - by Atty Cataldo	Moniz
11/08/2016	Findings and Order on Defendant's Motion to Suppress filed.	Moniz
11/08/2016	Order for Access to Records by Counsel, Signed by Atty Madera filed.	
11/08/2016	Court issues order Order Relative to October 14, 2016 Issues.	Moniz
11/15/2016	Re: Conrad Roy, III record(s) received from J. Pierson - Tri Town Counseling.	
11/21/2016	Order Allowing Access to Records - signed by Atty Flynn, ADA filed.	
12/01/2016	Child/young adult present in court.	Moniz
12/01/2016	Mother present in Court.	Moniz
12/01/2016	Father present in court.	Moniz
12/01/2016	Motion allowed for Funds for Expert: Psychologist with Expertise in Adolescent Development and Misconduct, by Atty Cataldo.	Moniz
12/01/2016	Motion denied Defendant's Motion for Funds for Expert: Forensic Pharmacology and Toxicology, by Atty Cataldo - without prejudice	Moniz
12/01/2016	Atty Cataldo, Atty Madera, Atty Flynn, ADA present in court.	Moniz
12/01/2016	Motion filed for Production of Exculpatory Evidence, by Atty Cataldo	
12/01/2016	Motion filed for Preservation, production and Inspection of Lynn Roy's Computer, by Atty Cataldo	
12/01/2016	Motion filed for Production of Documentary Evidence: Steppingstone, Inc	



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

12/01/2016	Same posted bail.	Moniz
12/06/2016	Motion filed Defendant's Motion to Reconsider Motion for Funds for Expert: Forensic Pharmacology and Toxicology (filed under seal), by Atty Cataldo	
12/12/2016	Motion filed Commonwealth's Motion for Reciprocal Discovery, by Atty Flynn, ADA	
12/14/2016	Motion allowed Defendant's Motion to Reconsider Motion for Funds for Expert: Forensic Pharmacology and Toxicology, by Atty Cataldo (See Margin Notes on Motion for Allowance - Ordered Impounded by Judge Moniz).	Moniz
12/19/2016	Child/young adult present in court.	Moniz
12/19/2016	Mother present in Court.	Moniz
12/19/2016	Father present in court.	Moniz
12/19/2016	Motion allowed in part Commonwealth's Motion for Reciprocal Discovery, by Atty Flynn, ADA	Moniz
12/19/2016	Motion allowed for Preservation, Production and Inspection of Lynn Roy's Computer, by Atty Cataldo.	Moniz
12/19/2016	Motion allowed for Production of Documentary Evidence: Stepping Stone, Inc., by Atty Cataldo.	Moniz
12/19/2016	Subpoena duces tecum for records re: Conrad Roy, III from Steppingstone, Inc.. [FORM] ORDERED: To Produce true and certified copies of any and all documents and records (entire file) , including but not limited to, any and all medical records, notes, logs and documents of any kind relative Conrad Roy, III (DOB 09/12/1995), for the period from May 1, 2014 to present.	Moniz
12/19/2016	Court issues order Section 4b of Commonwealth's Motion taken under advisement, Order to Issue on Motion.	Moniz
12/19/2016	Motion allowed in part for Production of Exculpatory Evidence, by Atty Cataldo (written order to follow)	Moniz
12/19/2016	Same posted bail.	Moniz
12/21/2016	Court issues order On Discovery Motions Heard on 12/19/2016 Issued, includes Rulings on Motion for Production of Documentary Evidence: Steppingstone, Inc., Motion for Preservation, Production and Inspection of L. Roy's Computer, Motion for Production of Exculpatory Evidence and Commonwealth's Motion for Reciprocal Discovery Compliance..	Moniz
01/23/2017	Child/young adult present in court.	Moniz
01/23/2017	Mother present in Court.	Moniz
01/23/2017	Father present in court.	Moniz
01/23/2017	Atty Cataldo, Atty Madera, Atty Flynn, ADA, Atty Rayburn, ADA present in court.	Moniz
01/23/2017	Pretrial conference report filed. - Joint PTC Report by the Parties	Moniz
01/23/2017	Same posted bail.	Moniz
01/23/2017	Motion allowed for Production of Documentary Evidence: Dr. Nada Zaknoun - to the Extent that Notice be given and a hearing scheduled for 2-03-17.	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

01/23/2017	Motion filed for Production of Documentary Evidence: Dr. Nada Zaknoun, by Atty Cataldo	Moniz
01/23/2017	Motion allowed for Production of Documentary Evidence: Dr. Paul Fulton, to the Extent that Notice be given and a hearing scheduled for 2-03-17.	Moniz
01/23/2017	Motion filed for Production of Documentary Evidence: Dr. Paul Fulton, by Atty Cataldo	Moniz
01/23/2017	Motion allowed Defendant's Motion for Short Order of Notice, by Atty Cataldo.	Moniz
01/23/2017	Motion filed Commonwealth's Motion for Disclosure Pursuant to Mass. R. Crim. Proc. Rule 14 (b) (2) (B), by Atty Rayburn, ADA and Atty Flynn, ADA	Moniz
01/23/2017	Motion filed to Produce Additional Fairhaven Police Records, by Atty Cataldo	Moniz
01/23/2017	Motion filed for Production of Fire Department/EMT Records: Fairhaven Fire Department, by Atty Cataldo	Moniz
01/23/2017	Motion filed for Short Order of Notice, by Atty Cataldo	Moniz
01/23/2017	Certificate of discovery compliance filed by prosecutor.	Moniz
02/02/2017	Motion filed to Continue/Reschedule, by Atty Cataldo	
02/02/2017	Affidavit and Resume of Dr. Peter Breggin, by Atty Cataldo filed.	
02/02/2017	Motion filed for Further Funds for Investigator, by Atty Cataldo	
02/02/2017	Motion filed for Funds: Electronic Forensic Expert, by Atty Cataldo	
02/02/2017	Affidavit of Steven R. Verronneau, by Atty Cataldo filed.	
02/03/2017	Child/young adult present in court.	Moniz
02/03/2017	Mother present in court.	Moniz
02/03/2017	Father present in court.	Moniz
02/03/2017	Motion allowed for Documentary Evidence: Dr. Paul Fulton - summons for records to issue.	Moniz
02/03/2017	Atty Cataldo, Atty Madera, Atty Flynn, ADA, Atty Rayburn ADA present in court.	Moniz
02/03/2017	Subpoena duces tecum for records re: Conrad Roy, III from Dr. Paul Fulton. [FORM] To produce true and certified copies of any and all documents and records (entire file), including, but not limited to, any and all medical records, notes, logs and documents of any kind from and in the custody of Dr. Paul Fulton and/or his agents, relative to Conrad Roy, III, (DOB 09-12-1996), between on or about January 1, 2013 to present.	Moniz
02/03/2017	Motion allowed to Continue/reschedule, by Atty Cataldo.	Moniz
02/03/2017	Motion allowed Renewed Motion for Production of Documentary Evidence: Dr. Nada Zaknoun, by Atty Cataldo.	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

02/03/2017	Subpoena duces tecum for records re: Conrad Roy, III from Dr. Nada Zaknoun. [FORM] To produce true and certified copies of any and all documents and records (entire file), including but not limited to, any and all medical records, notes, logs and documents of any kind in its custody, relative to Conrad Roy, III (DOB: 09-12-1995), between on or about January 1, 2013 to present.	Moniz
02/03/2017	Motion allowed for Production of Fire Department/EMT records: Fairhaven Fire Department, Atty Cataldo.	Moniz
02/03/2017	Subpoena duces tecum for records re: Conrad Roy III from Fairhaven Fire Department & EMT records. [FORM] To produce a true and certified copies of any and all documents and recordings (hereinafter referred to as " records"), from the Fairhaven Fire Department covering the time frame of 7-12-2014 at 6:00 p.m. through 7-13-2014 at 11:59 p.m. that include, but not limited to , any and all audio/dispatch/turret/emergency recordings, logs, EMT reports, notes and documents of any kind created in connection with Conrad Roy, III (Date of Birth 9-21-1995).	Moniz
02/03/2017	Motion allowed to Produce Additional Fairhaven Police Records, by Atty Cataldo.	Moniz
02/03/2017	Subpoena duces tecum for records re: Conrad Roy, III from Fairhaven Police Dept.. [FORM] To produce any and all police records from the time frame of 7-12-2014 at 6:00 p.m. through 7-13-2014 at 11:59 p.m. that include, but not limited to, any and all audio/dispatch/turret/911 recordings, dispatch logs, GPS coordinates of police cruisers and documents of any kind showing the location of any police officer from the Fairhaven Police Department at any time on those particular dates. Also, a list of the names of all police officers from the Fairhaven Police Department, who were present at the scene at the K-Mart parking lot on July 13, 2014 where the decedent (Conrad Roy, III d.o.b. 9-21-1995) was discovered.	Moniz
02/03/2017	Motion allowed Commonwealth's Motion for Disclosure Pursuant to Mass. R. Crim.Proc. Rule 14 (b) (2) (B), by Atty Rayburn, ADA.	Moniz
02/03/2017	Commonwealth's Response to Motion to Continue, by Atty Rayburn, ADA filed.	
02/03/2017	Motion allowed Defendant's Motion for Funds: Electronic Forensic Expert, by Atty Cataldo.	Moniz
02/16/2017	Conrad Roy, III record(s) received from Fairhaven Fire/EMS.	
02/16/2017	Returned Subpeona from St Vincent's, Fall River, Ma RE: Dr. Paul Fulton filed.	
02/21/2017	Re: Conrad Roy, III record(s) received from Fairhaven Police Dept..	
02/27/2017	Conrad Roy, III record(s) received from Dr. Nada Zaknoun.	
02/27/2017	Commonwealth's Proposed Juror Questionnaire, by Atty Flynn, ADA filed.	
03/02/2017	Defendant's Proposed Juror Questionnaire, by Atty Cataldo filed.	
03/06/2017	Child/young adult present in court.	Moniz
03/06/2017	Mother present in Court.	Moniz



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

03/06/2017	Father present in court.	Moniz
03/06/2017	Motion allowed Defendant's Motion for Further Investigative Funds, by Atty Cataldo.	Moniz
03/06/2017	Same posted bail.	Moniz
03/06/2017	Atty Cataldo, Atty Madera, Atty Flynn, ADA, Atty Rayburn, ADA present in court.	Moniz
03/13/2017	Motion filed Defendant's Motion to Allow Expert Testimony of Frank DiCataldo, PH.D., by Atty Cataldo	
03/13/2017	Motion filed Defendant's Motion to Allow Expert Testimony of Dr. Peter Breggin, M.D.	
03/13/2017	Acknowledgement of Order Allowing Access to Privileged Records, by Dr. Peter Breggin on 3-10-2017 filed.	
03/17/2017	Motion filed Commonwealth's Motion in Opposition to Testimony of Frank DiCataldo/Request for Sanctions by Atty Flynn, ADA	
03/21/2017	Child/young adult present in court.	Moniz
03/21/2017	Same posted bail.	Moniz
03/21/2017	Mother present in Court.	Moniz
03/21/2017	Atty Cataldo, Atty Madera, Atty Flynn, ADA, Atty Rayburn, ADA, Dr Peter Breggin, MD present in court.	Moniz
03/21/2017	Exhibit # 1 - Defense: Resume, Bibliography and Legal Cases, Dr. Breggin, # 2 - Defense: Report of Dr. Breggin, MD. # 3 - Defense: Supplement Concerning Conrad Roy, report in the case of Michelle Carter, Dr. Peter Breggin, MD admitted.	Moniz
03/21/2017	Exhibit(s) marked for identification. - Prosecution # 1	Moniz
03/23/2017	Conrad Roy, III record(s) received from Dr. Paul Fulton (Prime Medical Assoc.)	
03/28/2017	Supplemental Memorandum in Support of Defendant's Motion to Allow Expert Testimony of Frank DiCataldo, Ph.D., by Atty Madera filed.	
03/28/2017	Affidavit of Frank DiCataldo, Ph.D. filed.	
04/07/2017	Child/young adult present in court.	Moniz
04/07/2017	Mother present in Court.	Moniz
04/07/2017	Father present in court.	Moniz
04/07/2017	Motions to Allow Expert Testimony of Dr. Breggin and Dr. DiCataldo, by Atty Cataldo taken under advisement.	Moniz
04/07/2017	Atty Cataldo, Atty Madera, Atty Flynn ADA, Atty Rayburn ADA, Dr. Frank DiCataldo (Testimony) present in court.	Moniz
04/07/2017	Oral Objection as to Hearing going forward by Atty Flynn ADA - Objection Overruled filed.	Moniz
04/07/2017	Court issues order All Motions as to Dwyer Hrg. to be filed by May 1 at 1:00pm, rebuttals by May 5 at 1:00pm.	Moniz
04/07/2017	Court issues order All Trials Motions to be filed by May 25 at 1:00pm, rebuttals by June 1 at 1:00pm.	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

04/07/2017	Court issues order Proposed Jury Instructions to be filed by First Monday of Trial.	Moniz
04/07/2017	Exhibit # 1 - Curriculum Vitae of Dr. DiCataldo - Defense admitted.	Moniz
04/07/2017	Court issues order as to Juror Questionnaire - IMPOUNDED.	Moniz
04/19/2017	Commonwealth's Memorandum in Opposition to Testimony of Defense Experts in the Michelle Carter Case, by Atty Flynn ADA filed.	
04/24/2017	Defendant's Objection to Order as to Proposed Juror Questionnaire, by Atty Cataldo filed.	
05/01/2017	Motion filed Production of Documentary Evidence: Alana Burke, by Atty Cataldo	
05/01/2017	Affidavit in Support of Motion for Production of Documentary Evidence: Alana Burke filed.	
05/01/2017	Motion filed In Limine to Introduce: Bournemouth Hospital # 1 Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce: Bournemouth Hospital # 2 Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce Boston Children's Hospital Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Produce St. Luke's Hospital Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce Toby Hospital Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce Arbour-Fuller Hospital Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce Steppingstone Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce Dr. Jonathan Schwarz Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce Dr. Gulnur Brule Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce Dr. Paul Fulton Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce Dr. Nada Zaknoun Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce James Pierson Records, by Atty Cataldo	
05/01/2017	Motion filed In Limine to Introduce Dept. of Children and Families Records, by Atty Cataldo	
05/01/2017	Motion filed Commonwealth's Motion In Limine for Introduction of Certain Non -Privileged Records at Trial, by Atty Flynn, ADA	
05/01/2017	Motion filed Commonwealth's Motion In Limine for Introduction of Certain Privileged Records at Trial, by Atty Flynn, ADA	
05/03/2017	Motion allowed Defendant's Motion to Allow Expert Testimony of Dr. Peter Breggin, by Atty Cataldo - See Memorandum & Decision.	Moniz
05/03/2017	Motion denied Defendant's Motion to Allow Expert Testimony of Dr. Frank DiCataldo, by Atty Cataldo - See Memorandum, and Decision	Moniz



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

05/03/2017	Memorandum and Decision as to Expert Testimony of Dr. Peter Breggin filed.	Moniz
05/03/2017	Memorandum and Decision as to Expert Testimony of Dr. Frank DiCataldo filed.	Moniz
05/05/2017	Commonwealth's Opposition to Defendant's Motions In Limine, by Atty Flynn, ADA filed.	
05/09/2017	Motion filed Defendant's Motion for Further Funds: Electronic Forensic Expert, by Atty Madera, III	
05/09/2017	Affidavit in Support of Defendant's Motion for Further Funds: Electronic Expert, by Atty Madera, III filed.	
05/10/2017	Child/young adult present in court.	Moniz
05/10/2017	Mother present in Court.	Moniz
05/10/2017	Father present in court.	Moniz
05/10/2017	Atty Cataldo, Atty Madera, Atty Flynn, ADA. Atty Rayburn, ADA present in court.	Moniz
05/10/2017	Motion allowed for Production of Documentary Evidence : Alana Burke, by Atty Cataldo.	Moniz
05/10/2017	Motion allowed Commonwealth's Motion for Introduction of Certain Non-Privileged Records at Trial, by Atty Flynn, ADA-	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Tobey Hospital Records, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Bournewood Records # 1, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Bournewood Records # 2, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Boston Children's Hospital Records, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: St Luke's Hospital Records, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce Arbour Fuller Records, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Dr. Schwartz records, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Dr. Brule records, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Dr. Fulton Records, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Dr. Zaknoun records, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Steppingstone Records, by Atty Cataldo (Entire Record).	Moniz
05/10/2017	Motion allowed In Limine to Introduce: Dr. Pierson Records, by Atty Cataldo (Entire Record).	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

05/10/2017	Motion denied In Limine to Introduce: Dept, of Children and Families Records, by Atty Cataldo	Moniz
05/10/2017	Motion allowed Commonwealth's Motion for Introduction of Certain Privileged Records at Trial, by Atty Flynn, ADA.	Moniz
05/10/2017	Court issues order All Records are Impounded.	Moniz
05/10/2017	Motion allowed to Compel : Fairhaven Fire Department, by Atty Madera, III.	Moniz
05/10/2017	Subpoena duces tecum for records re: Any Employee or Agent of the Fairhaven Fire Department from Fairhaven Fire Department. [FORM] ***** See Attached Judge's Order ***	Moniz
05/10/2017	Subpoena duces tecum for records re: Conrad Roy III from Alana (Elana) Burke and/or her agents. [FORM]	Moniz
05/10/2017	Motion denied Defendant's Objection to Order as to Proposed Juror Questionnaire	Moniz
05/17/2017	Conrad Roy III record(s) received from Alana (Elana) Burke and/or her agents of Child & Family Services, Inc..	
05/17/2017	Conrad Roy III record(s) received from Fire Department/Emergency Medical Service.	
05/25/2017	Motion filed In Limine to Introduce: Alana Burke Records, by Atty Cataldo	
05/25/2017	Motion filed In Limine to Introduce Tabbed and Highlighted Pages of "Dwyer" Records Previously Ruled to be Admissible at Trial, by Atty Cataldo	
05/25/2017	Motion filed In Limine to Introduce Phone Extraction Report " Timeline " and Highlighted Excerpts between Conrad Roy, III and Michelle Carter, by Atty Cataldo	
05/25/2017	Motion filed In Limine to Sequester Witnesses at Trial, by Atty Cataldo	
05/25/2017	Motion filed In Limine to Introduce Copies of Skype Chats from Dell Computer of Conrad Roy, III, by Atty Cataldo	
05/25/2017	Motion filed In Limine Regarding the Term " victim" , by Atty Cataldo	
05/25/2017	Motion filed In Limine to Admit videotaped Statements of Conrad Roy, by Atty Flynn, ADA	
05/25/2017	Motion filed In Limine to Admit Autopsy Photographs, by Atty Flynn, ADA	
05/25/2017	Motion filed In Limine to Admit Defendant's Anchor Counseling records, by Atty Flynn, ADA	
05/25/2017	Motion filed In Limine to Exclude Hearsay Testimony, by Atty Flynn, ADA	
05/25/2017	Motion filed for Rebutting Defense of Involuntary Intoxication, by Atty Flynn, ADA	
05/25/2017	Motion filed for a View, by Atty Flynn, ADA	
05/30/2017	Mother present in Court.	Moniz
05/30/2017	Father present in court.	Moniz
05/30/2017	Atty Cataldo, Atty Madera, Atty Flynn, Atty Rayburn present in court.	Moniz
05/30/2017	Child/young adult present in court.	Moniz



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

06/01/2017	Court issues order Order Regarding Protocol, Public Attendance, and Media Coverage.	Moniz
06/05/2017	Child/young adult present in court.	Moniz
06/05/2017	Mother present in Court.	Moniz
06/05/2017	Father present in court.	Moniz
06/05/2017	Atty Cataldo, Atty Madera, Atty Flynn ADA, Atty Rayburn ADA present in court.	Moniz
06/05/2017	Jury trial waived.	Moniz
06/05/2017	Colloquy with child/defendant conducted.	Moniz
06/05/2017	Motion allowed In Limine: to Introduce Tabbed and Highlighted Pages of "Dwyer" Records Previously Rules to be Admissible at Trial, by Atty Cataldo.	Moniz
06/05/2017	Motion allowed In Limine: To Introduce Phone Extraction report "Timelines" and Highlighted Excerpts between Conrad Roy, III and Michelle Carter, by Atty Cataldo.	Moniz
06/05/2017	Motion withdrawn In Limine : To Produce Copies of Skype Chats from Dell Computer of Conrad Roy, III, by Atty Cataldo	Moniz
06/05/2017	Motion allowed Commonwealth's Motion In Limine: To Exclude Hearsay Testimony Regarding, Allegations of Domestic Violence between victim and father, by Atty Flynn ADA (See Margin notes on motion).	Moniz
06/05/2017	Motion allowed Commonwealth's Motion In Limine: To Admit Autopsy Photographs of the Victim, by Atty Flynn ADA.	Moniz
06/05/2017	Motion allowed Commonwealth's Motion for a View, by Atty Flynn, ADA.	Moniz
06/05/2017	Motion allowed In Limine to Sequester Witnesses at Trial, by Atty Cataldo.	Moniz
06/05/2017	Motion allowed Commonwealth's Motion In Limine: to Admit Videotapes Statements of Conrad Roy, by Atty Flynn, ADA.	Moniz
06/05/2017	Motion allowed Commonwealth's Motion IN Limine: to Admit Defendant's Records from Anchor Counseling, by Atty Flynn ADA.	Moniz
06/05/2017	Motion allowed In Limine Regarding the Term " Victim ", by Atty Cataldo.	Moniz
06/05/2017	Motion allowed In Limine to Introduce: Alana Burke Records, by Atty Cataldo.	Moniz
06/05/2017	Same posted bail.	Moniz
06/05/2017	Court issues order See Margin Notes on the Commonwealth's Motion In Limine to Admit Evidence Rebutting the Defense of Involuntary Intoxication, by Atty Rayburn, ADA.	Moniz
06/06/2017	Motion filed Commonwealth's Motion for Judicial Notice: Felony , by Atty Rayburn	Moniz
06/06/2017	Motion allowed Commonwealth's Motion for Judicial Notice: Felony, by Atty Rayburn.	Moniz
06/06/2017	Child/young adult present in court.	Moniz
06/06/2017	Mother present in Court.	Moniz
06/06/2017	Father present in court.	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

06/06/2017	Atty Cataldo, Atty Madeira, Atty Flynn ADA, Atty Rayburn ADA Witnesses Testified: Lynne Roy, Camdyn Roy, Trp. Paul Bartlett, Thomas Gammel, Lt. Walter Therrien, Fairhaven Fire Dept.. Off. David Correia, Fairhaven PD present in court.	Moniz
06/06/2017	Same posted bail.	Moniz
06/06/2017	Exhibit(s) marked for identification. (2 Photos marked A & B - later entered as exhibit # 13)	Moniz
06/06/2017	Exhibit Exhibits 1 through 15 admitted.	Moniz
06/06/2017	Motion filed Commonwealth's Motion to Preclude testimony of Doctor Peter Breggin based Upon Disclosure of Substantial Changes in Findings Provided to Commonwealth on Friday, June 2, 2017, by Atty Rayburn ADA	Moniz
06/06/2017	Motion denied Commonwealth's Motion to Preclude Testimony of Dr. Peter Breggin Based Upon Disclosure of Substantial Changes in Findings Provided to Commonwealth on Friday, June 2, 2017, by Atty Rayburn, ADA	Moniz
06/06/2017	Oral Stipulation by the Parties as to Defendant being 14yrs old or older at the time of the offense filed.	
06/07/2017	Child/young adult present in court.	Moniz
06/07/2017	Mother present in Court.	Moniz
06/07/2017	Father present in court.	Moniz
06/07/2017	Atty Cataldo, Atty Madera, Atty Flynn ADA , Atty Rayburn ADA, Testified: Det. Gordon, Fairhaven PD, A. Either, O. Mosolgo, A. Eblan, S. Boardman present in court.	Moniz
06/07/2017	Same posted bail.	Moniz
06/07/2017	Exhibit # 16 Through # 22 admitted.	Moniz
06/08/2017	Child/young adult present in court.	Moniz
06/08/2017	Mother present in Court.	Moniz
06/08/2017	Father present in court.	Moniz
06/08/2017	Atty Cataldo, Atty Madeira, Atty Flynn ADA, Atty Rayburn, ADA, Testified: Dr. Faryl Sandler, Medical Examiner , Tpr. B. Morrisett, Tpr Collins present in court.	Moniz
06/08/2017	Same posted bail.	Moniz
06/08/2017	Court issues order IMPOUNDED Exhibits # 25 and # 28.	Moniz
06/08/2017	Exhibit # 23 though # 31 (Exhibits # 25 & # 28 Impounded) admitted.	Moniz
06/08/2017	Motion filed In Limine to Introduce Facebook Messages between Conrad Roy, III and Michelle Carter, by Atty Cataldo	
06/08/2017	Motion filed Defendant's Motion for Required Finding of Not Guilty at the Close of All Evidence, by Atty Cataldo	
06/09/2017	Child/young adult present in court.	Moniz
06/09/2017	Mother present in Court.	Moniz
06/09/2017	Father present in court.	Moniz



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

06/09/2017	Atty Cataldo, Atty Madera, Atty Flynn ADA, Atty Rayburn ADA, Witnesses: Off. Quintin, Steven Verronneau, Off. Tavares, Mattapoisset PD present in court.	Moniz
06/09/2017	Exhibit # 32 through 61 admitted.	Moniz
06/09/2017	Exhibit(s) marked for identification. - ID Exhibits " C " & " D " - Later Admitted as Exbt # 61	Moniz
06/09/2017	Court issues order Exhibits # 33 through # 45 and Exhibit # 60 - IMPOUNDED.	Moniz
06/09/2017	Motion filed Defendant's Motion for a Required Finding of Not Guilty, by Atty Cataldo	Moniz
06/09/2017	Motion denied Defendant's Motion for a Required Finding of Not Guilty, by Atty Cataldo - See margin notes on the motion	Moniz
06/09/2017	Motion allowed In Limine to Introduce Facebook Messages between Conrad Roy III and Michelle Carter, by Atty Cataldo.	Moniz
06/09/2017	Same posted bail.	Moniz
06/12/2017	Child/young adult present in court.	Moniz
06/12/2017	Mother present in Court.	Moniz
06/12/2017	Father present in court.	Moniz
06/12/2017	Atty Cataldo, Atty Madera, Atty Flynn ADA, Atty Rayburn ADA Witnesses: Off. Justin King, Off. Andrew Quitin, Off. Dennis Tavares, Steven Verronneau, Dr. Peter Breggin present in court.	Moniz
06/12/2017	Same posted bail.	Moniz
06/12/2017	Exhibit(s) marked for identification. - Exhibit " E " ID Only	Moniz
06/13/2017	Mother present in Court.	Moniz
06/13/2017	Father present in court.	Moniz
06/13/2017	Atty Cataldo, Atty Madera, Atty Flynn ADA, Atty Rayburn ADA Witness: Dr. Breggin present in court.	Moniz
06/13/2017	Same posted bail.	Moniz
06/13/2017	Exhibit(s) marked for identification. - " F ", " G " & " H " - ID Only	Moniz
06/13/2017	Motion filed Commonwealth's Motion for Impoundment, by Atty Flynn ADA	Moniz
06/13/2017	Commonwealth's Motion for Impoundment, by Atty Flynn ADA taken under advisement.	Moniz
06/13/2017	Court issues order All Autopys photos, medical and mental health records remain Impounded until further order of the Court.	Moniz
06/13/2017	Court issues order Case taken Under Advisement for a Decision.	Moniz
06/16/2017	Mother present in Court.	Moniz
06/16/2017	Father present in court.	Moniz
06/16/2017	Atty Cataldo, Atty Madera, Atty Flynn ADA, Atty Rayburn ADA present in court.	Moniz
06/16/2017	Same posted bail.	Moniz
06/16/2017	Child/young adult present in court.	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

06/16/2017	Conditions of release ordered. [SCAN]	Moniz
06/16/2017	Probation pre-sentencing investigation due on 07/21/2017.	Moniz
06/16/2017	Charge(s) adjudicated/disposed as follows:: Charge #1 MANSLAUGHTER INVOLVING NEGLECT OF LEGAL DUTY c265 §13 On: 06/16/2017 Judge: Hon. Lawrence Moniz Found to be a youthful offender	
06/16/2017	Court issues order : Defendant Found Guilty.	Moniz
06/16/2017	Motion denied Defendant's Motion for Required Finding of Not Guilty at the Close of All Evidence, by Atty Cataldo	Moniz
06/16/2017	Verdict Slip by Judge Moniz filed.	Moniz
06/20/2017	Order for Release of Records (sole purpose of preparing pre-sentence report) filed.	Spinale
06/20/2017	Motion allowed Commonwealth's Motion for Impoundment, by Atty Flynn ADA (Written Order Issued).	Moniz
06/20/2017	Court issues order On Commonwealth's Motion for Impoundment - All of the records so Impounded, and kept, maintained, and destroyed as comports with the rules of the Clerk's office as to exhibits. (See Order for specifics as to Impoundment and Exemption as to Probation Dept. for assistance in preparation of the pre-sentence report.).	Moniz
06/20/2017	Order Regarding Preparation of Pre-Sentence Report - Re: Walden Behavioral Care Center filed.	Moniz
06/20/2017	Order Regarding Preparation of Pre-Sentence Report - Re: McLean Hospital filed.	Moniz
06/20/2017	Order Regarding Preparation of Pre-Sentence Report - Re: Anchor Counseling filed.	Moniz
06/20/2017	Order Regarding Preparation of Pre-Sentence Report, Re: Wrentham School Dept. filed.	Moniz
06/23/2017	Order Regarding Preparation of Pre-Sentence Report : Re: G.Holmes, LMHC filed.	Moniz
06/27/2017	Defense Counsel's Sentence Memorandum filed.	
06/28/2017	Court issues order Defense Counsel's Sentence Memorandum - IMPOUNDED until 08-03-2017.	Moniz
06/29/2017	Motion filed Defendant's Motion for Further Funds for Expert: Dr. Peter Breggin, by Atty Madera	
06/29/2017	Affidavit from Counsel in Support of Defendant's Motion for Further Funds for Expert: Dr. Peter Breggin filed.	
06/29/2017	Affidavit from Dr. Peter Breggin in Support of Defendant's Motion for Further Funds for Expert: Dr. Peter Breggin filed.	
06/29/2017	Motion filed Defendant's Motion for Further Investigative Funds, by Atty Madera	
06/29/2017	Affidavit in Support of Motion for Further Investigative Funds filed.	
06/29/2017	Motion filed Defendant's Motion for Funds: Stenographer, by Atty Madera	
06/29/2017	Affidavit in Support of Defendant's Motion for Funds: Stenographer filed.	



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

07/11/2017	Supplemental Affidavit in Support of Defendant's Motion for Funds: Stenographer by Atty. Madera filed.	
07/12/2017	Motion allowed Defendant's Motion for Further Investigative Funds, by Atty Madera.	Moniz
07/14/2017	Motion filed Defendant's Revised Motion for Further Funds: Electronic Forensic Expert with Supporting Affidavit by Atty. Madera	
07/14/2017	Motion filed Defendant's Revised Motion for Initial Funds to Hire Defense Expert: Dr. Peter Breggin in the Field of Psychiatry with Supporting Affidavit by Atty. Madera	
07/14/2017	Motion allowed Defendant's Motion for Funds: Stenographer, by Atty Madera.	Moniz
07/14/2017	Motion allowed Defendant's Revised Motion for Further Funds: Electronic Forensic Expert. Allowed in the amount of \$1,332.50 - Earlier similar Motion for Further Funds for this expert deemed withdrawn. (See Margin notes on Motion)	Moniz
07/14/2017	Motion allowed Defendant's Revised Motion for Initial Funds to Hire Defense Expert: Dr. Peter Breggin in the Field of Psychiatry, Atty Madera. ALLOWED as to sum of \$5,000.00 and said allowance vacates the order of this court dated 12/14/16 on a similar Motion as to Dr. Breggin. (See Margin notes on motion)	Moniz
07/14/2017	Motion filed Defendant's Revised Motion for Further Funds: Electronic Forensic Expert, by Atty Madera	
08/03/2017	Mother present in Court.	Moniz
08/03/2017	Father present in court.	Moniz
08/03/2017	Atty Cataldo, Atty Madera, Atty Flynn ADA, Atty Rayburn ADA , Camdyn Roy - victim family statement , Conrad Roy Jr. - victim family statement present in court.	Moniz
08/03/2017	Child/young adult present in court.	Moniz
08/03/2017	Motion filed Defendant's Motion for Stay of Sentence, by Atty Cataldo	Moniz
08/03/2017	Motion allowed Defendant's Motion for Stay of Sentence, by Atty Cataldo.	Moniz
08/03/2017	Motion filed Motion for Expedited Assembly of the Record, by Atty Rayburn, ADA	Moniz
08/03/2017	Motion allowed for Expedited Assembly of the Record, by Atty Rayburn, ADA.	Moniz
08/03/2017	Court issues order on Defendant's Motion for a Stay.	Moniz
08/03/2017	Conditions of release ordered. [SCAN]	Moniz
08/03/2017	Court issues order on Motion for Further Funds for Dr. Peter Breggin.	Moniz
08/03/2017	Court issues order Addendum to Order of Conditions of Release per Allowance of the Motion to Stay Sentence Pursuant to Massachusetts Rules of Criminal Procedure, Rule 31 and G.L. c.276 s 87.	Moniz
08/03/2017	Sentencing Order - (2 1/2 years Bristol County House of Corrections Sentence, 15 Months to Serve, Balance Suspended with 5 years Probation starting August 3, 2017 to August 1, 2022.) filed.	Moniz
08/03/2017	Youthful Offender Sentencing Order filed.	Moniz



**MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report**

08/03/2017	Disposition/sentence imposed:: Sentence Date: 08/03/2017 Judge: Hon. Lawrence Moniz Charge #: 1 MANSLAUGHTER INVOLVING NEGLECT OF LEGAL DUTY c265 §13 Financials: Victim/Witness Assessment MGL c.258B s.8 \$45.00 Amount \$45.00 Probation: Administrative Probation	
08/03/2017	Disposition/sentence imposed:: Revision Date: 08/03/2017 Judge: Hon. Lawrence Moniz Charge #: 1 MANSLAUGHTER INVOLVING NEGLECT OF LEGAL DUTY c265 §13 Split Sentence to HOC Term: 2 Years, 6 Months, 0 Days To Serve: 0 Years, 15 Months, 0 Days Financials: Victim/Witness Assessment MGL c.258B s.8 \$45.00 Amount \$45.00 Probation: Administrative Probation	
08/03/2017	Probation fee waived due to undue hardship or payment of restitution for term imposed.	Moniz
08/03/2017	Court issues order Victim witness Fee to be Paid by 9-11-2017:	Moniz
08/03/2017	Conditions of probation ordered. [SCAN]	Moniz
08/03/2017	Court issues order Probation to be Administrative until released from House of Corrections.	Moniz
08/03/2017	Court issues order Defense Presentencing Memorandum - IMPOUNDED - see Order dated 8-03-17 filed on 8-07-17.	Moniz
08/03/2017	Signed conditions of Probation Form and also signed Addendum to Order of Probation Conditions (both scanned) filed.	Moniz
08/07/2017	Court issues order for Impoundment dated 8-03-2017 filed on 8-07-17 - Def. Pre Sentence Memorandum.	Moniz
08/07/2017	Youthful Offender Proceeding Sentencing Findings Pursuant to G.L. c. 119 s.58 filed.	Moniz
08/09/2017	Motion filed Commonwealth's Motion for Return of all Materials Provided to Defendant's Witness Peter Breggin, by Atty Rayburn, ADA	
08/10/2017	Motion filed Commonwealth's Motion to allow an Ex-Parte Hearing on the Commonwealth's Request for a Temporary Order, by Atty Rayburn, ADA	
08/10/2017	Motion allowed Commonwealth's Motion to Allow an Ex-Parte Hearing on the request for a Temporary Order, by Atty Rayburn, ADA.	Moniz
08/10/2017	Court issues order Moving Party notify by First Class Mail, Return Receipt to Peter Breggin.	Moniz



MASSACHUSETTS
BRISTOL COUNTY JUVENILE COURT
Docket Report

08/11/2017	Motion filed Probation's Motion for Clarification of Stay, by Atty Joss Deputy Legal Counsel, Mass. Probation Service	
08/11/2017	Court issues order on Commonwealth's Motion for Return of All Materials Provided to Defendant's Witness Peter Breggin.	Moniz
08/18/2017	Letter from Atty Scheer on behalf of Dr. Peter Breggin, with attached letter from Dr. Peter Breggin to Atty Cataldo, signed release by Michelle Carter and letter from Robert Whitaker, President Mad in America Foundation filed.	
08/21/2017	Child/defendant's presence excused.	Moniz
08/21/2017	Atty Cataldo, Atty Fynn ADA, Atty Joss, Mass. Probation Dept. present in court.	Moniz
08/21/2017	Court issues order Conditions of Release and Probation to Remain - Written Order to Follow.	Moniz
08/21/2017	Court issues order Documents Received from Atty Scheer on behalf of Dr. Breggin, Not Impounded.	Moniz
08/21/2017	Court issues order Order on Commonwealth's Motion for Return of All Materials Provided to Defendant's Witness, Dr Peter Breggin is extended until New Order is Written.	Moniz
08/21/2017	Motion allowed - Please see Ruling file on 9-05-2017, nunc pro tunc to 8-21-2017.	Moniz
08/31/2017	Notice of appeal to Appeals Court filed by Michelle Carter. submitted by Atty Cataldo	
09/01/2017	Court issues order on Commonwealth's Motion for Return of Materials Provided to Defendant's Witness Peter Breggin (This Order replaces the previous Order issued on 8-10-17, then extended to 8-21-17).	Moniz
09/05/2017	Ruling on Probation's Motion for Clarification of Stay, nunc pro tunc 8-21-2017 filed.	Moniz

A true copy
Attest:

[Signature]
Magistrate

Commonwealth of Massachusetts

BRISTOL, SS.

At the SUPERIOR COURT holden at Fall River within and for the County of Bristol, for the transaction of criminal business on the First Monday of January, 2015,

THE JURORS for the said Commonwealth on their oath present, That

Michelle Carter,

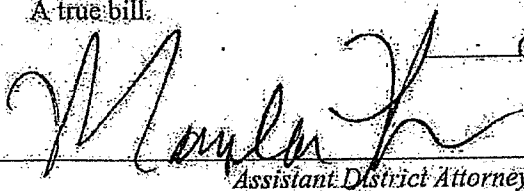
on or about July 12, 2014, at Fairhaven, in the County of Bristol aforesaid,

did commit an unlawful killing of Conrad Roy III, by wanton and reckless conduct, and

by such wanton and reckless conduct did cause the death of said Conrad Roy III.

(G.L. Chap. 265, Sec. 13)

A true bill.


Assistant District Attorney.


Foreperson of the Grand Jury.

A true copy
Attest:


Magistrate

FILED
BRISTOL SS
JUVENILE COURT
2015 FEB - 6 AM 10:42

BRISTOL, SS. On this

day of

in the year Two Thousand and Fifteen

this indictment was returned and

presented to said Superior Court by the Grand Jury and ordered to be filed and filed.

Attest:


Clerk/Magistrate

FILED
BRISTOL S.S.
JUVENILE COURT
No.

NB:DI

2015 FEB -6 AM 10:42

INDICTMENT

Commonwealth

vs.

Michelle Carter

Involuntary Manslaughter 265/13

Sup. C. January Sitting, 2015

A true copy

Attest:


Magistrate

15400001NE


And the JURORS, aforesaid, for the COMMONWEALTH OF MASSACHUSETTS, on their oath, aforesaid, do further present that

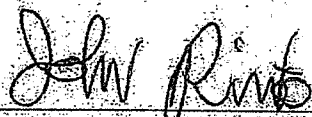
MICHELLE CARTER,

was between the ages of fourteen and eighteen on the date of the aforementioned offense; and that the aforementioned offense, committed by an adult, would be punishable by imprisonment in the state prison, and that the aforementioned offense involved the infliction or threat of serious bodily harm in violation of law; and that the said Michelle Carter, is therefore a youthful offender, as defined by Chapter 119, Section 54.

FILED
BRISTOL SS
JUVENILE COURT
2015 FEB - 6 AM 10:00

A TRUE BILL.


Assistant District Attorney


Foreperson of the Grand Jury

A true copy
Attest:


Magistrate

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
JUVENILE COURT DEPARTMENT
TAUNTON SESSION

DOCKET # 15YO0001NE

COMMONWEALTH

vs.

MICHELLE CARTER

MEMORANDUM AND DECISION ON DEFENDANT'S MOTION TO ALLOW
EXPERT TESTIMONY OF DR. FRANK DICATALDO

After consideration of the evidence presented at an evidentiary hearing on the defendant's Motion as described above and consideration of oral and written argument of counsel, this court now DENIES said motion.

In coming to this determination, the court has considered the five foundational requirements set forth in Rule 702 of the Massachusetts Guide to Evidence and cases cited giving rise to and construing said rule, including, but not limited to, Commonwealth vs Barboza 457 Mass 773(2010), Daubert v Merrell Dow Pharmaceuticals, Inc. 509 U.S. 579 (1993), Commonwealth v Lanigan 419 Mass 15 (1994) and the progeny of those cases.

This court first determines that Dr. DiCataldo qualifies generally as an expert witness as a forensic psychologist, based upon his education, training, experience and familiarity with the subject material proposed. He has indicated that he would be testifying as to general principles and characteristics in the area of psychology frequently referred to as the undeveloped adolescent brain, an area of psychology that has garnered recognition in the courts of Massachusetts. See, e.g. Commonwealth v Okoro, 471 Mass 51 (2015). In considering his proposed testimony as a whole, however, this court does not find that the necessary foundational requirements that must be satisfied to allow for such testimony to be presented at trial have been satisfied. The court notes further that even though Dr. DiCataldo has been qualified as an expert in other cases, that does not automatically render any opinion from him admissible in any specific case. See Commonwealth vs Weaver 474 Mass 787, 810 (2016).

The first requirement under Rule 702 is that the proposed testimony of the expert would be of assistance to the trier of fact. Here, Dr. DiCataldo has indicated that he would testify as to the general nature of the undeveloped adolescent brain and the only correlation of that general theory to the defendant is his knowledge of her age, being roughly seventeen years eleven months at the time of the alleged incident giving rise to this indictment. He indicated he has never interviewed Ms. Carter, nor reviewed any records relating to her, other than one line indicating her age, which line was extracted from one of the police reports. He has not engaged her in any testing, nor reviewed any of her medical or mental health history, or any records relating thereto, including a reported hospitalization that occurred for her prior to this alleged

event.

In Commonwealth v Weaver, 474 Mass 787 (2016) Dr. DiCataldo was proffered as an expert as part of a motion for new trial on the issue of voluntariness of an adolescent's statements. The appellate decision indicates that Dr. DiCataldo examined the defendant in that case, a fifteen year old boy, administered two psychological tests, interviewed the defendant, and gained "an understanding of the defendant's family dynamics" before presenting any opinion to the court. Id at 807-808. The judge hearing the motion for a new trial in that case determined that Dr. DiCataldo's testimony would not have been admissible at trial for reasons not relevant here, but what is instructive from that case for this case is that Dr. DiCataldo himself, as a forensic expert, explicated procedures used in preparing for the presentation of expert testimony before a trier of fact. Dr. DiCataldo never met, spoke with, or evaluated in any way, Ms. Carter. He neither administered any testing, nor reviewed the results of anyone else's testing of this defendant, despite having done "thousands" of evaluations of young people. He indicated that he had no knowledge of the alleged activities of the defendant other than that generally reported in the press. He did not review any educational records, even though he indicated that the applicability of his general theories as to adolescent brain development considers cognitive differences in young people. He professed no knowledge of her mental health status, no knowledge of any recent hospitalizations and records relating thereto, and no knowledge of her medication regimens, if any, all of which would allow for an analysis as to the connection/applicability between the general theory of undeveloped brain and this defendant's actions. He did not speak to anyone as to Ms. Carter's behaviors, including her family, despite his stated criteria that the connection to this theory can be impacted by emotional regulation or lack thereof.

In Commonwealth v Okoro, 471 Mass 51 (2015) the defendant sought to introduce testimony by Dr. Robert Kinscherff, also a forensic psychologist, as to the effect of the defendant's age and his life experience on his actions in the alleged incident giving rise to a charge of murder in the second degree. Although much of that decision addresses the issue of specific intent relative to a charge of murder in the second-degree, the case is nonetheless instructive here in several respects. First, the Supreme Judicial Court indicated that "the trial judge was correct in allowing Dr. Kinscherff to testify regarding the development of adolescent brains and how this could inform an understanding of this particular juvenile's capacity for impulse control and reasoned decision-making on the night of the victim's death." (emphasis added). The court then further indicated that "this information was beyond the jury's common knowledge; it offered assistance to the jury in determining whether the defendant was able to form the intent required for deliberate premeditation or malice generally at the time of the incident and it did not amount to the opinion that the defendant or any other 15-year-old was incapable of forming intent required for murder in the first or second degree simply by virtue of being 15. In this way Dr. Kinscherff's permitted testimony aided the jury in reaching a decision by helping them to understand both the nature of the defendant's mental condition and its effect on his state of mind at the relevant time." All at Okoro, supra, at pp. 66-67.

According to a transcript of Dr. Kinscherff's testimony in that case, which was provided to the undersigned judge and other counsel by the district attorney's office during the hearing in

this case, Dr. Kinscherff engaged in multiple procedures in assessing the several dimensions of the defendant's functioning, presentation, biological features, temperament, neuropsychological bases of cognitive development, other features of biology or biological vulnerabilities to mental disease or defect, psychological functioning, psychological testing, social history, substance abuse, interviews with the defendant (Dr. Kinscherff interviewed that defendant three times), cognitive testing, personality testing, and other assessments, all designed to create what Dr. Kinscherff's referred to as a "portrait of the defendant." Once that portrait was completed, the nexus between the defendant's action and the theory of undeveloped adolescent brain could be testified to by him for consideration by the jury. By his admission, Dr. DiCataldo has gathered no such evidence, other than the age of the defendant. He has created no "portrait" of Ms. Carter.

In his testimony here, Dr. DiCataldo described a continuum of the general theory of adolescent brain development as spanning the time from approximately the onset of puberty until what he described as attainment of "autonomy." In other parts of his testimony he described approximate time frames from age 14 to age 26. He indicated there was no bright line in its application between the age of seventeen and eighteen. Without the nexus, to try to apply the general theory of undeveloped adolescent brain, especially in view of this broad spectrum, to Ms. Carter in any form, would invite and require speculation by the jury, if the only nexus to that theory is his one considered fact that the defendant was seventeen, an analysis contrary to the second quoted passage from Okoro, above.

This Court specifically inquired of Dr. DiCataldo as to the definition from his perspective of a forensic psychologist. He responded that part of that definition requires that the forensic psychologist apply the theories of psychology to a specific population, but when pressed further, he indicated the psychologist would show how the theory applied to a particular person within that population. Extrapolating from this, one could conclude that youths between puberty and "autonomy" comprise the specific population, and Ms. Carter would be a particular person within that population. He has no basis to apply it to the particular person, Ms. Carter. As such, the reliability of his theory as it would apply in this case cannot be tested.

Dr. DiCataldo acknowledged that there is conflict in the literature, to which he admitted, and he described his expertise as being based on literature review. Even if one accepts the reliability of the theory that the adolescent brain is undeveloped, in consideration of the fourth foundational requirement, this ethereal concept has its value in assisting the trier of fact only by showing how it relates to and impacts any of Ms. Carter's alleged actions. Without any connection being made by this expert, it is impossible to determine the reliability of the principle as applied to Ms. Carter, as required by the fifth foundational requirement of Rule 702.

Similarly, even if one concludes that Dr. DiCataldo has general knowledge and expertise in the area of adolescent brain development, this Court finds that the third criteria of Rule 702 has not been satisfied, which is that he does not have knowledge of sufficient facts or data in the record to provide assistance to the trier of fact. See Commonwealth v Talbot, 444 Mass 586 (2005), and other cases cited in this decision, since he has not considered any facts as relate to any connection between Ms. Carter and the theory about which he would testify. As noted in Department of Youth Services vs a Juvenile 398 Mass. 516 (1986) this requires that the

expert have a sufficient familiarity with the *particular facts* to reach a meaningful expert opinion. He has no knowledge of particular facts relevant to this specific case.

Finally, Dr. DiCataldo indicated that applicability of the general principles of adolescent brain development to which he would testify to Ms. Carter "could be" a matter of expert testimony, and further indicated later in his testimony that such applicability would not be within the purview of a lay juror, a position consistent with Okoro, supra. Consequently, this expert himself has indicated to the court that, without evidence of a nexus between the general theory of adolescent brain development and Ms. Carter, the jury would be required to venture into an area they are not qualified to determine, leading to speculation and uninformed analysis as to the applicability. Allowing a process that invites the jury to speculate does not satisfy the foundational requirement that the expert witness testimony would help jurors interpret evidence that lies outside of common experience. See Commonwealth v Tanner, 45 Mass App Ct 576 (1998) and Commonwealth v Tolan, 453 Mass 634 (2009). Rather than assist and enlighten the jury, without testimony in creating the nexus, Dr. DiCataldo's testimony would likely confuse the jury.

CONCLUSION

This court concludes that the necessary criteria as explicated in Rule 702 and cases construing same for the admission of Dr. DiCataldo's testimony have not been satisfied, and therefore the Defendant's motion is **DENIED**.

Dated: May 3, 2017

By the Court,


Lawrence Moniz Associate Justice

cc: Assistant District Attorney Flynn and Rayburn
Attorney Madera and Attorney Cataldo

* * * * *

COMMONWEALTH OF MASSACHUSETTS

v.

MICHELLE CARTER

* * * * *

Docket No. 15YO0001NE

APPEARANCES:

For the Defendant:
Cataldo Law Offices
1000 Franklin Village Drive, Suite 207
Franklin, Massachusetts 02038
By: Joseph P. Cataldo, Esq.
Cory Madera, Esq.

Cambridge Transcriptions
Approved Court Transcriber

1 MR. MADERA: Good morning, Your Honor.

2 MS. FLYNN: Good morning, Your Honor.

3 THE COURT OFFICER: This court is now in session. Be
4 seated, please. No talking while court's in session.
5 Please silence cell phones and place them away.

6 THE COURT: All right. Are we back on the record
7 then, Clerk?

8 THE CLERK: We are, Your Honor. We're back on the
9 record.

10 THE COURT: All right. The Court has now considered
11 the written and oral argument of defense counsel, argument
12 of the Commonwealth, the evidence presented by the
13 Commonwealth in its case in chief, and the law relative to
14 those issues raised in the motion for directed verdict. It
15 now denies the motion for a request for a directed verdict
16 both as to the indictment charging involuntary manslaughter
17 and the companion indictment of the youthful offender
18 status. All right. Mr. Cataldo, are you set to proceed,
19 sir?

20 MR. CATALDO: I am, Your Honor.

21 THE COURT: All right.

22 MR. CATALDO: Your Honor, yesterday -- if it wasn't
23 yesterday, it was the day before -- I filed a motion in
24 limine to introduce Facebook messages between Conrad Roy
25 and Michelle Carter.

Pages: 1-14
Exhibit: 0

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS. BRISTOL JUVENILE COURT
TAUNTON SESSION

* * * * *
*
COMMONWEALTH OF MASSACHUSETTS *
*
v. * Docket No. 15YO0001NE
*
MICHELLE CARTER *
*
* * * * *

BENCH TRIAL
BEFORE THE HONORABLE LAWRENCE MONIZ

APPEARANCES:

For the Commonwealth:
Bristol County District Attorney's Office
888 Purchase Street, PO Box 973
New Bedford, Massachusetts 02741
By: Maryclare Flynn, Assistant District Attorney
Katie C. Rayburn, Assistant District Attorney

For the Defendant:
Cataldo Law Offices, LLC
1000 Franklin Village Drive, Suite 207
Franklin, Massachusetts 02038
By: Joseph Cataldo, Esq.
Cory Madera, Esq.

Taunton, Massachusetts
June 16, 2017

Cambridge Transcriptions
Approved Court Transcriber

1 (Court called to order.)

2 THE COURT OFFICER: Court, all rise.

3 THE COURT: Good morning, everyone.

4 THE COURT OFFICER: You may be seated. Court is now
5 in session. Please remain quiet.

6 THE CLERK: Good morning, Your Honor. June 16, 2017.
7 You have before you the matter of Commonwealth v. Michelle
8 Carter, scheduled to (indiscernible) decision on the trial.

9 THE COURT: All right. So before I begin, I want to
10 thank the members of the media and the members of the
11 public who have been here for the appropriate decorum that
12 they have shown throughout this trial. Please understand,
13 I expect that same level of decorum today. Should there be
14 any breach of that decorum, you can expect that there will
15 be a harsh response from this judge.

16 The law does not require that any explanation as to a
17 verdict be given, when the judge is the fact-finder, unless
18 a request for rulings has been made, and that has not been
19 done in this case. Nonetheless, I am of the opinion that
20 some explanation of my verdict is warranted. My comments
21 that follow should not be construed as a complete
22 explanation of my findings as to the facts, my deliberative
23 process or all of the law that has been analyzed and
24 applied by me to the facts as I have found them to be.
25 Rather, they are provided to you to provide some context

1 for the decisions that have been made.

2 I have essentially divided the evidence in this case
3 into three components. The first component comprises
4 roughly the period of June 29, 2014 through the ending of
5 the text messages between Ms. Carter and Mr. Roy on or
6 about July 12, 2014. The second period commences
7 immediately thereafter and encompasses primarily the phone
8 conversations and activity occurring until the -- I'm sorry
9 -- occurring from the ending of the text messages through
10 July 13, 2014. But that area of evidentiary consideration
11 is strongly informed by all of the other evidence in this
12 case. The third period is all of the evidence not
13 encompassed in those two areas that I have just described.

14 This Court first finds that the Commonwealth has
15 proven beyond a reasonable doubt that the actions taken by
16 Ms. Carter as to the period from June 30 to July 12
17 constituted wanton and reckless conduct by her, in
18 disregard -- in serious disregard of the wellbeing of Mr.
19 Roy.

20 The Commonwealth has not proven as to that time period
21 that said reckless or wanton behavior caused the death of
22 Mr. Roy. It is apparent to this Court in reviewing the
23 evidence that Mr. Roy was struggling with his issues and
24 seeing a way to address them and took significant actions
25 of his own toward that end. His research was extensive.

1 He spoke of it continually. He secured the generator. He
2 secured the water pump. He researched how to fix the
3 generator. He located his vehicle in an unnoticeable area
4 and commenced his attempt by starting the pump.

5 However, he breaks that chain of self-causation by
6 exiting the vehicle. He takes himself out of the toxic
7 environment that it has become. This is completely
8 consistent with his earlier attempts at suicide. In
9 October of 2012, when he attempted to drown himself, he
10 literally sought air. When he exited the truck, he
11 literally sought fresh air. And he told a parent of that
12 attempt.

13 Several weeks later, in October of 2012 again, he
14 attempts, through the use of pills, to take his life but
15 calls a friend and assistance is sought and treatment
16 secured. That Mr. Roy may have tried and maybe succeeded
17 another time, after July 12 or 13 of 2014, is of no
18 consequence to this Court's deliberations.

19 Although some have suggested for this case that the
20 legal principles involved are novel, that is not accurate.
21 Approximately 200 years ago a man in Hampshire County, in
22 the Commonwealth of Massachusetts, an inmate at the
23 Hampshire jail, was charged with causing the murder of the
24 man in the next cell. Case is Commonwealth v. Bowen. The
25 law was different in those days but some of the

1 similarities existed.

2 The person who ended up taking his life in the Bowen
3 case was named Jewett. Jewett in fact hung himself in his
4 jail cell approximately six hours before he was to be
5 publicly hanged for killing his father. Whether Mr. Roy in
6 this case would have taken his life at another time does
7 not control or even inform this Court's decision. In the
8 Bowen case, where they refer to Mr. Jewett, the person who
9 took his life, as the culprit, the Court writes, "The
10 culprit, though under sentence of death, is cheered by hope
11 to the last moment of his existence."

12 Returning to this case. When Ms. Carter realizes that
13 Mr. Roy has exited the truck, she instructs him to get back
14 into the truck, which she has reason to know is or is
15 becoming a toxic environment inconsistent with human life.
16 She is mindful that the process in the truck will take
17 approximately 15 minutes. Whether that is a true fact is
18 not relevant. What is relevant is that that is her state
19 of mind based upon a text exchanged between she and Mr. Roy
20 during the period of June 30 to July 14.

21 She instructs Mr. Roy to get back into the truck, well
22 knowing of all of the feelings that he has exchanged with
23 her -- his ambiguities, his fears, his concerns. This
24 Court finds that instructing Mr. Roy to get back in the
25 truck constituted willful and reck -- I'm sorry -- wanton

1 and reckless conduct by Ms. Carter, creating a situation
2 where there is a high degree of likelihood that substantial
3 harm would result to Mr. Roy.

4 Ms. Carter knows, through her own admission, that Mr.
5 Roy has followed her instruction. As she indicates in
6 various text messages, subsequently created, to some of her
7 friends, she indicates that she can hear him coughing and
8 she can hear the loud noise of the motor. The Court notes
9 that I looked for independent corroboration of some of the
10 statements that Ms. Carter made, to make sure that there
11 was no undue reliance on any one source of evidence.

12 The photos taken at the scene of the crime, where Mr.
13 Roy's truck was located, clearly illustrate the location of
14 the water pump immediately adjacent to where he would have
15 been sitting in the truck, next to his upper torso and his
16 head, thereby giving a good explanation to Ms. Carter's
17 definition that the noise was loud within the truck. Ms.
18 Carter at that point, therefore, had reason to know that
19 Mr. Roy had followed her instruction and had placed himself
20 in the toxic environment of that truck.

21 At this point in the Court's analysis, the Court took
22 direction from a case Commonwealth v. Levesque. In
23 Commonwealth v. Levesque, it is indicated that "where one's
24 actions create a life-threatening risk to another, there is
25 a duty to take reasonable steps to alleviate the risk. The

1 reckless failure to fulfill this duty can result in a
2 charge of manslaughter."

3 Knowing that Mr. Roy is in the truck, knowing the
4 condition of the truck, knowing -- or at least having a
5 state of mind that 15 minutes would pass, Ms. Carter takes
6 no action in a furtherance of the duty that she has created
7 by instructing Mr. Roy to get back into the truck. She
8 admits in a subsequent text that she did nothing. She did
9 not call the police or Mr. Roy's family.

10 She knew his location, again, according to a text that
11 she sent, as being at the Kmart plaza. According to one of
12 her emails, and other credible evidence -- I'm sorry.
13 According to other credible evidence -- the police officers
14 who testified -- the location where Mr. Roy's truck was
15 located was approximately one half mile from the public
16 services office of Fairhaven, which included both the fire
17 department and the police department.

18 She did not notify his mother or his sister, even
19 though just several days before that she had requested
20 their phone numbers from Mr. Roy and had obtained them, and
21 had opened a line of communication with Camdyn Roy on, I
22 believe, July 10, but just a few days before the events in
23 question. She called no one.

24 And finally, she did not issue a simple additional
25 instruction -- get out of the truck.

1 Consequently, this Court has found that the
2 Commonwealth has proven beyond a reasonable doubt that Ms.
3 Carter's actions -- and also her failure to act, where she
4 had a self-created duty to Mr. Roy, since she had put him
5 into that toxic environment -- constituted, each and all,
6 wanton and reckless conduct.

7 And this Court further finds that the Commonwealth has
8 prove beyond a reasonable doubt that said conduct caused
9 the death of Mr. Roy.

10 This Court does not find that the intentionality
11 necessary for such wanton and reckless conduct is obviated
12 by Dr. Breggin's theory of involuntary intoxication in that
13 the Court did not find that analysis credible.

14 Ms. Carter, please stand.

15 This Court, having reviewed the evidence and applied
16 the law thereto, now finds you guilty on the indictment
17 charging you with the involuntary manslaughter of the
18 person Conrad Roy, III.

19 This Court further finds that the Commonwealth has
20 proven beyond a reasonable doubt that you are a youthful
21 offender, and you are adjudged so at this time.

22 You may be seated.

23 That verdict is now recorded, and it is in writing as
24 well.

25 Commonwealth, do you wish to be heard?

1 MS. FLYNN: The Commonwealth moves for sentencing,
2 Your Honor.

3 THE COURT: Pardon me?

4 MS. FLYNN: The Commonwealth moves for sentencing.

5 THE COURT: Sentencing is not appropriate at this
6 time. Chapter 119, Section 58 requires that a
7 presentencing report be prepared and given to the judge
8 before sentencing can be imposed.

9 MS. FLYNN: Understood, Your Honor. With that, the
10 Commonwealth would ask that Ms. Carter's bail be revoked
11 and she be taken into custody.

12 THE COURT: And the basis for that request?

13 MS. FLYNN: She's now been convicted of a felony, and
14 clearly she's a danger not only to others but, based on the
15 testimony, to herself.

16 THE COURT: All right. Thank you.

17 Mr. Cataldo, Mr. Madera, do you wish to be heard on
18 the Commonwealth's request?

19 MR. CATALDO: Yes. I ask you not to revoke the bail,
20 Your Honor. This case has been pending for a couple of
21 years now. She's showed up each and every time, she's
22 obeyed the conditions -- all the conditions that she had of
23 her release, and I do not think that the evidence shows
24 that she is a danger to the public if she's released.

25 THE COURT: Mr. Cataldo, are you willing to inquire of

1 your client as to whether she has a passport?

2 MR. CATALDO: Yes. One moment, please.

3 (Ms. Carter confers with Counsel.)

4 MR. CATALDO: No, she does not have a passport, Your
5 Honor.

6 THE COURT: All right. The Court notes that, as Mr.
7 Cataldo points out, this case has a long history. To my
8 knowledge, Ms. Carter has never failed to appear. When she
9 was interviewed by the police at the King Philip Regional
10 High School, she was cooperative with that interview.
11 She's cooperative with allowing the police into her home.
12 I believe that revised conditions of bail release will
13 suffice to secure the concerns of the Commonwealth as well
14 as to allow for the completion of the sentencing report
15 before it is done.

16 Consequently, Mr. Cataldo, assuming that your client
17 accepts the following conditions, I will allow her to
18 remain on bail. She will have no contact with any member
19 of the Roy family or any of the witnesses who have
20 testified in this case. And by no contact, obviously I
21 mean no texting, no Facebook, no Snapchat -- none of those
22 things that provide for any type of direct or indirect
23 communication, including of course anything through a third
24 party.

25 She shall not apply for nor obtain a passport. She

1 shall not leave the Commonwealth of Massachusetts except by
2 further order of this Court. But I do not restrict that to
3 just me, in the event I am not available. A request may be
4 made of any judge who is sitting here in the Juvenile
5 Court.

6 Commonwealth, recognizing the Court's position on
7 this, do you have any other requests as to additional bail
8 conditions of release?

9 MS. FLYNN: No, thank you, Your Honor.

10 THE COURT: All right. Okay. I'm going to ask that a
11 probation sentencing report be provided by July 21. Can
12 that be done?

13 MS. TAYLOR: Yes, Your Honor.

14 THE COURT: Thank you very much, Ms. Taylor.

15 I want the attorneys to understand that it is the
16 position of this judge that sentencing reports prepared by
17 the Probation Department are for the judge. In fairness,
18 since they -- I give them careful reflection in coming to a
19 sentencing determination. I will allow the attorneys, as
20 well as any necessary individuals within the District
21 Attorney's Office, to be provided with one copy that may be
22 read by those individuals that I have just identified. And
23 that, Mr. Cataldo, you, Mr. Madera and your legal defense
24 team, may similarly be provided with one copy.

25 It is not a public document. It is not filed with the

1 clerk's office, and there is no public access to that
2 document. So you are prohibited from disseminating any of
3 the information contained in that sentencing report to any
4 individual other than within your own defense or
5 prosecution team.

6 Now, that being done on July 21, I would like to see
7 if we could schedule a sentencing hearing perhaps for the
8 week of July 31, subject, of course, to the respect that I
9 have for people's vacations, or the first week in August.

10 MR. CATALDO: August 3, please?

11 THE COURT: I'm sorry, August 3?

12 MR. CATALDO: August 3.

13 THE COURT: What day is that. I don't have --

14 MR. CATALDO: A Thursday.

15 THE COURT: Thursday. Is that okay, Madam Clerk?

16 THE CLERK: That's fine, Judge.

17 THE COURT: All right. Then this matter will stand
18 continued to August 3 for a sentencing hearing. We'll be
19 in recess until that date.

20 Counsel, I have a copy of the verdict for all of you,
21 if you'd like it.

22 MS. FLYNN: Thank you, Your Honor.

23 MS. RAYBURN: Thank you, Your Honor. Thank you, Madam
24 Clerk. Thank you, Mr. Clerk.

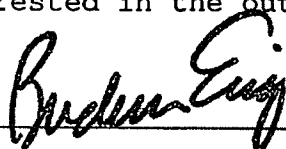
25 THE COURT: Thank you very much.

1 THE COURT OFFICER: All rise.
2 (Court adjourned.)
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1 We, Cambridge Transcriptions, an Approved Court
2 Transcriber, do hereby certify that the foregoing is a true
3 and accurate transcript from the audio recording provided
4 to us by Cory Madera, Esq. of the Bristol Juvenile Court
5 proceedings in the above-entitled matter.
6

7 We, Cambridge Transcriptions, further certify that the
8 foregoing is in compliance with the Administrative Office
9 of the Trial Court Directive on Transcript Format.
10

11 We, Cambridge Transcriptions, further certify that we
12 neither are counsel for, related to, nor employed by any of
13 the parties to the action in which this hearing was taken,
14 and further that we are not financially nor otherwise
15 interested in the outcome of the action.
16

17 

18 Buchanan Ewing

19 12/18/2017

20 Date

21
22 675 Massachusetts Avenue, Cambridge, MA 02139

23 617-547-5690

24 buck@ctran.com
25

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
JUVENILE COURT DEPARTMENT
TAUNTON SESSION

DOCKET # 15YO0001NE

COMMONWEALTH

vs.

MICHELLE CARTER

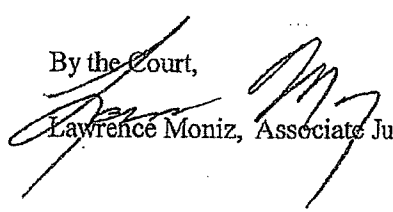
VERDICT

This Court, having considered and weighed all of the evidence presented, and having applied the laws of the Commonwealth of Massachusetts to said evidence, now finds the Defendant, Michelle Carter, guilty on the indictment charging her with involuntary manslaughter of Conrad Roy, III.

This Court further finds, as to said indictment, that the Commonwealth has proven, beyond a reasonable doubt, that Michelle Carter is a youthful offender, as that term is defined in G.L c 119 s 52, and she is adjudged to be a youthful offender on this date.

Dated: June 16, 2017

By the Court,


Lawrence Moniz, Associate Justice

cc: Attorneys Rayburn, Flynn, Cataldo, and Madera

A true copy
Attest:


Magistrate